

Division of Corporations

# P 99000014578

Florida Department of State  
Division of Corporations  
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To: Division of Corporations  
Fax Number : (850)922-4000

From: Account Name : FORD, JETER & BOWLUS, P.A.  
Account Number : 075350000442  
Phone : (904)268-7227  
Fax Number : (904)262-3337

## BASIC AMENDMENT ECCO PROPERTIES, INC.

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TALLAHASSEE, FLORIDA

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AMEND  
4/28/99  
4-30

**FORD, JETER, BOWLUS & DUSS, P.A.**  
Attorneys at Law

Michael Bowlus  
John Duss  
Robert A. Ford  
William H. Jeter, Jr.  
Brian S. Johnson  
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**FAX COVERSHEET**

**DATE:** April 30, 1999

**TO:** Karen Gibson

**FROM:** Pat Shane, secretary to Michael Bowlus

**RE:** Ecco Properties

**NO. PAGES (Incl. this page):** 8

**RECEIVING FAX NUMBER:** 850/922-4000

**DOCUMENTS TRANSMITTED:** Re-transmit of amended articles with adoption language and correct statutory citation

**COMMENTS:**

**THANK YOU!** for all your help. If you need anything more, please call me at 904/268-7227.

APR 30 1999  
FAX  
FORD, JETER, BOWLUS & DUSS, P.A.

APR 11 20, 1999

ECCO PROPERTIES, INC.  
6226 BARNES ROAD SOUTH  
JACKSONVILLE, FL 32216

SUBJECT: ECCO PROPERTIES, INC.  
REF: P99000014578

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

The amendment must be adopted in one of the following manners:

(1) If an amendment was approved by the shareholders, one of the following statements must be contained in the document.

(a) A statement that the number of votes cast for the amendment by the shareholders was sufficient for approval, -or-

(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.

(2) If an amendment was adopted by the incorporators or board of directors without shareholder action.

(a) A statement that the amendment was adopted by either the incorporators or board of directors and that shareholder action was not required.

The name and title of the person signing the document must be noted beneath or opposite the signature.

The date of adoption of each amendment must be included in the document.

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 (850) 487-6880.

Karen Gibson  
Corporate Specialist

FAX Aud. #: H99000010105  
Letter Number: 099A00022911

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AMENDED  
ARTICLES OF INCORPORATION OF  
ECCO PROPERTIES, INC.  
DOCUMENT NUMBER P99000014578

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Pursuant to Section 607.1006, Florida Statutes, these amended articles of incorporation provide that:

1. The name of the corporation is ECCO PROPERTIES, INC., (the "Corporation").

2. The principal office of the Corporation is:

6226 Barnes Road South  
Jacksonville, FL 32216

3. Purpose. The Company's business and purpose shall consist solely of the acquisition, ownership, operation and management of the real estate project known as Park View Place Apartments, located at 6226 Barnes Road South, Jacksonville, Duval County, Florid (the "Property") and such activities as are necessary, incidental or appropriate in connection therewith.

4. Powers and Duties. Notwithstanding any other provision of this Agreement and so long as any obligation secured by the Mortgage (as defined below) remains outstanding and not discharged in full, without the consent of all members of the Company, the **officers, shareholders or directors** shall have no authority to:

- i. borrow money or incur indebtedness on behalf of the Company other than normal trade accounts payable and lease obligations in the ordinary course of business, or grant consensual liens on the Company's property; except, however, that the **President** is hereby authorized to secure financing for the Company pursuant to the terms of the mortgage or deed of trust currently held by NORWEST

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BANK MINNESOTA, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF DLJ COMMERCIAL CORP., COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 1998-CF1, as beneficiary (the "Mortgage") and other indebtedness expressly permitted therein or in the documents related to the Mortgage, and to grant a mortgage, lien or liens on the Company's Property to secure such Mortgage;

- ii. dissolve or liquidate the Company;
- iii. sell or lease, or otherwise dispose of all or substantially all of the assets of the Company;
- iv. file a voluntary petition or otherwise initiate proceedings to have the Company adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Company, or file a petition seeking or consenting to reorganization or relief of the Company as debtor under any applicable federal or state law relating to bankruptcy, insolvency, or other relief for debtors with respect to the Company; or seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator (or other similar official) of the Company or of all or any substantial part of the properties and assets of the Company, or make any general assignment for the benefit of creditors of the Company, or admit in writing the inability of the Company to pay its debts generally as they become due or declare or effect a moratorium on the Company debt or take any action in furtherance of any action;
- v. amend, modify or alter Sections 1, 3, 4, 5, 6, 7 or 8 of this Agreement [Note: cross reference to actual sections addressed in this form]; or
- vi. merge or consolidate with any other entity.

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Notwithstanding the foregoing and so long as any obligation secured by the Mortgage remains outstanding and not discharged in full, the **officers, directors and shareholders** shall have no authority (1) to take any actions in items (i) through (vi) above unless such action has been approved by a unanimous vote of the **shareholders of the Company**, or (2) to take any action in items (i) through (iii) and (v) and (vi) without the written consent of the holder of the mortgage.

5. Title to Company Property. All property owned by the Company shall be owned by the Company as an entity and, insofar as permitted by applicable law, no **officer, director or shareholder** shall have any ownership interest in any Company property in its individual name or right, and each **shareholder's** Company Interest shall be personal property for all purposes.

6. Separateness/Operations Matters. The Company shall conduct its business and operations in accordance with the following provisions:

- a. maintain books and records and bank accounts separate from those of any other person;
- b. maintain its assets in such a manner that it is not costly or difficult to segregate, identify or ascertain such assets;
- c. hold regular Company meets, as appropriate, to conduct the business of the Company, and observe all other Company formalities;
- d. hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;
- e. prepare separate tax returns and financial statements, or if part of a consolidated group, then it will be shown as a separate member of such group;

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- f. allocate and charge fairly and reasonably any common employee or overhead shared with affiliates and maintain a sufficient number of employees in light of its contemplated business operations;
- g. transact all business with affiliates on an arm's-length basis and pursuant to enforceable agreements;
- h. conduct business in its own name, and use separate stationery, invoices and checks;
- i. not commingle its assets or funds with those of any other person;
- j. not assume, guarantee or pay the debts or obligations of any other person;
- k. pay its own liabilities out of its own funds;
- l. not acquire obligations or securities of its partners;
- m. not pledge its assets for the benefit of any other entity or make any loans or advances to any entity;
- n. correct any known misunderstanding regarding its separate identity;
- o. intend to maintain adequate capital in light of its contemplated business operations; and
- p. maintain all required qualifications to do business in the state in which the Property is located.

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7. Effect of Bankruptcy, Death or Incompetency of a Member. The bankruptcy, death, dissolution, liquidation, termination or adjudication of incompetency of an *officer, director or shareholder* shall not cause the termination of dissolution of the Company and the business of the Company shall continue. Upon any such occurrence, the trustee, receiver, executor, administrator, committee, guardian or conservator of such *officer, director or shareholder* shall have all the rights of such *officer, director or shareholder* for the purpose of settling or managing its estate or property, subject to satisfying conditions precedent to the admission of such assignee as a substitute *officer, director or shareholder*. The transfer by such trustee, receiver, executor, administrator, committee, guardian or conservator of any Company Interest shall be subject to all of the restrictions hereunder to which such transfer would have been subject if such transfer had been made by such bankrupt, deceased, dissolved, liquidated, terminated or incompetent *officer, director or shareholder*.

8. Controlling Provisions. So long as any obligations secured by the Mortgage remain outstanding and not paid in full Sections 3, 4, 5, 6, 7 or 8 hereof shall control in the event of any conflict with any contrary provisions hereof or of any other entity governance documents.

9. The aggregate number of shares which the Corporation is authorized to issue is 100 shares of Common Stock, par value \$1.00 per share.

10. The street address of the initial registered office of this Corporation is 337 East Forsyth Street, Jacksonville, Florida 32202, and the name of the initial registered agent of this Corporation at that address is Harry Katz, Jr.

11. The names and addresses of the person signing these amended articles of incorporation are Michael Bowlus, Esq., 10110 San Jose Blvd., Jacksonville, Florida and Osnald Calizaire, 8951 Polk Avenue, Jacksonville, Florida 32208.

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12. The corporation shall have two (2) directors initially. The number of directors may be either increased or decreased from time to time as provided in the By-Laws of the Corporation, but shall never be less than one.

Dated: April 28<sup>th</sup>, 1999.

  
Michael Bowlus

  
Osnald Calizaire  
President

This amendment was adopted by the shareholders on April 28, 1999.  
The number of votes was sufficient for approval.

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