

CCRS
103 N. MERIDIAN STREET, LOWER LEVEL
TALLAHASSEE, FL 32301
222-1173

FILING COVER SHEET
ACCT. #FCA-14

File 1st

P99000085501

CONTACT: CINDY HICKS

100002997191--7
-09/27/99--01042--015
*****70.00 *****70.00

DATE: 9-27-99

REF. #: 0166 8398

CORP. NAME: MDC South Wind Corp.

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> ARTICLES OF INCORPORATION | <input type="checkbox"/> ARTICLES OF AMENDMENT | <input type="checkbox"/> ARTICLES OF DISSOLUTION |
| <input type="checkbox"/> ANNUAL REPORT | <input type="checkbox"/> TRADEMARK/SERVICE MARK | <input type="checkbox"/> FICTITIOUS NAME |
| <input type="checkbox"/> FOREIGN QUALIFICATION | <input type="checkbox"/> LIMITED PARTNERSHIP | <input type="checkbox"/> LIMITED LIABILITY |
| <input type="checkbox"/> REINSTATEMENT | <input type="checkbox"/> MERGER | <input type="checkbox"/> WITHDRAWAL |
| <input type="checkbox"/> CERTIFICATE OF CANCELLATION | <input type="checkbox"/> UCC-1 | <input type="checkbox"/> UCC-3 |
| <input type="checkbox"/> OTHER: _____ | | |

STATE FEES PREPAID WITH CHECK# 5951 FOR \$ 70.00

AUTHORIZATION FOR ACCOUNT IF TO BE DEBITED: 100002997191--7
-09/28/99--01003--006
*****8.75 *****8.75

COST LIMIT: \$ _____

PLEASE RETURN:

- ☒ CERTIFIED COPY ☐ CERTIFICATE OF GOOD STANDING
☐ CERTIFICATE OF STATUS

☒ PLAIN STAMPED COPY

Examiner's Initials

ajc 9/27

ARTICLES OF INCORPORATION
OF
MDC SOUTH WIND CORP.

99 SEP 27 AM 8:37
TALLAHASSEE, FLORIDA

ARTICLE I

The name of the corporation is MDC SOUTH WIND CORP. The principal business address or mailing address of the corporation is: 201 North US Highway 1, Suite D-5, Jupiter, Florida 33477.

ARTICLE II

The corporation shall have perpetual existence.

ARTICLE III

The corporation is organized for the purpose of the transaction of any and all lawful business for which corporations may be incorporated, pursuant to Chapter 607, Florida Statutes, known as the Florida Business Corporation Act. Notwithstanding the foregoing, so long as the "Loan" as hereinafter defined, or any portion thereof remains outstanding, the Corporation:

- (a) will not dissolve or terminate or materially amend the terms of its articles of incorporation or other organizational document;
- (b) will not enter into any transaction of merger or consolidation, or liquidate or dissolve (or suffer any liquidation or dissolution), or acquire by purchase or otherwise all or substantially all the business or assets of, or any stock or other evidence of beneficial ownership of any entity;
- (c) has not and will not guarantee or otherwise become liable on or in connection with any obligation of any other person or entity;

THIS INSTRUMENT PREPARED BY:
Conrad J. Boyle, Esquire
Mombach, Boyle & Hardin, P.A.
500 E. Broward Blvd., Suite 1950
Fort Lauderdale, Florida 33394
Florida Bar No. 306711
(954) 467-2200

(d) does not own and will not own any asset other than a general partnership interest in MDC South Wind, Ltd., a Florida limited partnership to be formed (the "Partnership"), or assets held by the Corporation on behalf of the Partnership in connection with the Partnership's ownership and operation of property known as South Wind Plaza Shopping Center (the "Property");

(e) is not engaged and will not engage, either directly or indirectly, in any business other than the ownership, management and operation of the Partnership and the Property;

(f) will not enter into any contract or agreement with any partner, Principal or affiliate of the Partnership, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than an affiliate;

(g) has not incurred and will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the indebtedness of the Partnership with regard to the Property (which shall be limited to that certain first mortgage Loan to the Partnership in the original principal amount of \$4,000,000.00 (the "Loan"), and (ii) affiliate advances or trade payables or accrued expenses incurred in the ordinary course of business of operating the Property; no other debt may be secured (senior, subordinate or pari passu) by the Property;

(h) has not made and will not make any loans or advances to any third party (including any affiliate);

(i) is and will be solvent and pay its debt from its assets as the same shall become due;

(j) has done or caused to be done and will do all things necessary to preserve its existence, and will not, nor will any partner, limited or general, or shareholder thereof, amend, modify or otherwise change its articles of incorporation or by-laws in a manner which adversely affects the Corporation's existence as a single purpose entity;

(k) will conduct and operate its business as initially conducted and operated;

(l) will maintain books and records and bank accounts separate from those of its affiliates, including its partners;

(m) will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate thereof, including any affiliate of the Partnership);

(n) will file its own tax returns;

(o) will 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;

- (p) will not seek the dissolution or winding up, in whole or in part, of the Partnership;
- (q) will not commingle the funds and other assets of the Partnership with those of any partner, any affiliate or any other person;
- (r) has and will 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 or any other person;
- (s) does not and will not hold itself out to be responsible for the debts or obligations of any other person;
- (t) will remain a single purpose (bankruptcy remote) entity and specifically:
 - (i) the Corporation may not own and will not own any asset or property other than (1) its interest in the Partnership, (2) the Property, and (3) incidental personal property necessary for the ownership or operation of the Property and the Corporation will not engage in any business other than the ownership, management and operation of the Property and the Corporation will conduct and operate its business as initially conducted and operated;
 - (ii) the Corporation has not incurred and will not incur any indebtedness, secured or unsecured, direct, indirect, or contingent other than (1) the Partnership Loan, and (2) trade and operational debt incurred in the ordinary course of business (including loans by partners of the Partnership);
 - (iii) the Corporation has done or caused to be done and will do all things necessary to preserve its existence, and neither the Corporation nor its Principals will amend, modify or otherwise change any of their organizational documents in a manner which would adversely affect the Corporation's existence as a single purpose entity;
 - (iv) the Corporation has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate, Principal or any other person; and
- (u) will not agree to or propose any substantive consolidation with any affiliate, Principal, or any other person in any proceeding brought under Chapter 11 of the Bankruptcy Code, Title 11 U.S.C., whether by plan of reorganization or otherwise.

As used herein, the term "Principal" is defined as follows: all officers and any shareholder with a 10% or greater ownership interest.

ARTICLE IV

The corporation is authorized to issue seven thousand five hundred (7,500) shares of capital stock at the par value of One Dollar (\$1.00) each.

ARTICLE V

The street address of the initial registered office of the corporation is 500 East Broward Boulevard, Suite 1950, Fort Lauderdale, Florida 33394, and the name of the initial registered agent of the corporation at that address is Conrad J. Boyle.

ARTICLE VI

The name and address of the incorporator(s) is as follows:

J. Thomas O'Brien, Jr.
c/o Menin Development Companies, Inc.
7443 Lee Davis Road, Suite 300
Mechanicsville, Virginia 23111

ARTICLE VII

There shall be no imposition of personal liability on shareholders of the corporation for the debts or obligations of the corporation.

ARTICLE VIII

The By-Laws of the corporation may be adopted, altered, amended, or repealed by either the Board of Directors or the shareholders in such manner as shall be set forth in the By-Laws. Any By-Law adopted by the shareholders may provide that one or more provisions thereof shall not be altered, amended or repealed by the Board of Directors, in which case such provisions may be amended, altered or repealed only by the shareholders.

ARTICLE IX

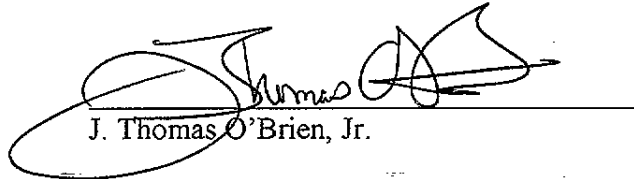
The corporation shall indemnify any officer or director, for actions in their corporate capacity, to the full extent permitted by law.

ARTICLE X

The corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation, or any amendment thereto, and any right conferred upon the shareholders is subject to this reservation.

[SIGNATURES TO FOLLOW]

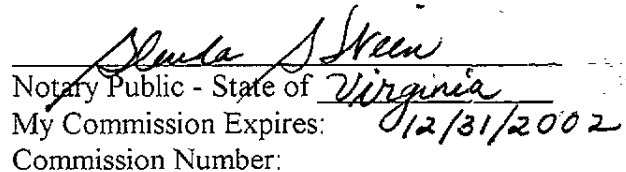
IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation, this 23rd day of September, 1999.


J. Thomas O'Brien, Jr.

STATE OF Virginia)

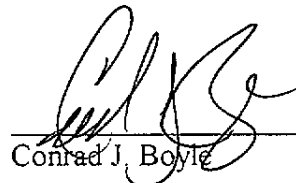
COUNTY OF Hanover)

The foregoing instrument was acknowledged before me this 23rd day of September, 1999, by J. THOMAS O'BRIEN, JR., who ☒ is personally known to me or who ☐ has produced a _____ driver's license as identification and who did take an oath.


Notary Public - State of Virginia
My Commission Expires: 12/31/2002
Commission Number:

I, Conrad J. Boyle, hereby accept the designation of Registered Agent for service of process upon MDC SOUTH WIND CORP., a corporation within the State of Florida, pursuant to Florida Statutes 607.0501. I am familiar with and accept the obligations of that position.

DATED this 24th day of September, 1999.


Conrad J. Boyle

59 SEP 27 AM 8:37
TALLAHASSEE, FLORIDA