

# UNOFFICIAL COPY

REC-777043

File Number

5493-801-2

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DEPT-01 RECORDING 437.50  
 T#0003 TRAN 7600 11/09/95 15:04:00  
 #3061 + RB \*-95-777043  
 COOK COUNTY RECORDER

## State of Illinois Office of The Secretary of State

Whereas, ARTICLES OF AMENDMENT TO THE ARTICLES OF INCORPORATION OF AVENUE CARE CENTER, INC. INCORPORATED UNDER THE LAWS OF THE STATE OF ILLINOIS HAVE BEEN FILED IN THE OFFICE OF THE SECRETARY OF STATE AS PROVIDED BY THE BUSINESS CORPORATION ACT OF ILLINOIS, IN FORCE JULY 1, A.D. 1984.

Now Therefore, I, George H. Ryan, Secretary of State of the State of Illinois, by virtue of the powers vested in me by law, do hereby issue this certificate and attach hereto a copy of the Application of the aforesaid corporation.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, at the City of Springfield, this 7<sup>TH</sup> day of NOVEMBER A.D. 19 95 and of the Independence of the United States the two hundred and 20<sup>TH</sup>



*George H Ryan*

Secretary of State

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6/10/2008

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Form **BCA-10.30**

(Rev. Jan. 1995)

## ARTICLES OF AMENDMENT

File # 5493-801-2

George H. Ryan  
Secretary of State  
Department of Business Services  
Springfield, IL 62756  
Telephone (217) 782-1832

# FILED

NOV 7 1995

GEORGE H. RYAN  
SECRETARY OF STATE

SUBMIT IN DUPLICATE

This space for use by  
Secretary of State

Date 11-07-95

Franchise Tax \$

Filing Fee \$ 25.00

Penalty \$

Approved: MR

Remit payment in check or money order, payable to "Secretary of State."

\*The filing fee for articles of amendment - \$25.00

1. CORPORATE NAME: Avenue Care Center, Inc.

(Note 1)

2. MANNER OF ADOPTION OF AMENDMENT:

The following amendment of the Articles of Incorporation was adopted on October 20, 19 95 in the manner indicated below. ("X" one box only)

By a majority of the incorporators, provided no directors were named in the articles of incorporation and no directors have been elected;

(Note 2)

By a majority of the board of directors, in accordance with Section 10.10, the corporation having issued no shares as of the time of adoption of this amendment;

(Note 2)

By a majority of the board of directors, in accordance with Section 10.15, shares having been issued but shareholder action not being required for the adoption of the amendment;

(Note 3)

By the shareholders, in accordance with Section 10.20, a resolution of the board of directors having been duly adopted and submitted to the shareholders. At a meeting of shareholders, not less than the minimum number of votes required by statute and by the articles of incorporation were voted in favor of the amendment;

(Note 4)

By the shareholders, in accordance with Sections 10.20 and 7.10, a resolution of the board of directors having been duly adopted and submitted to the shareholders. A consent in writing has been signed by shareholders having not less than the minimum number of votes required by statute and by the articles of incorporation. Shareholders who have not consented in writing have been given notice in accordance with Section 7.10;

(Notes 4 & 5)

By the shareholders, in accordance with Sections 10.20 and 7.10, a resolution of the board of directors having been duly adopted and submitted to the shareholders. A consent in writing has been signed by all the shareholders entitled to vote on this amendment.

(Note 5)

3. TEXT OF AMENDMENT:

a. When amendment effects a name change, insert the new corporate name below. Use Page 2 for all other amendments.

Article 1: The name of the corporation is:

# EXPEDITED

NOV 7 1995

(NEW NAME)

SECRETARY OF STATE

All changes other than name, include on page 2  
(over)

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## Text of Amendment

- b. *(If amendment affects the corporate purpose, the amended purpose is required to be set forth in its entirety. If there is not sufficient space to do so, add one or more sheets of this size.)*

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## NOTES and INSTRUCTIONS

- NOTE 1:** State the true exact corporate name as it appears on the records of the office of the Secretary of State, BEFORE any amendments herein reported.
- NOTE 2:** Incorporators are permitted to adopt amendments ONLY before any shares have been issued and before any directors have been named or elected. (§ 10.10)
- NOTE 3:** Directors may adopt amendments without shareholder approval in only seven instances, as follows:
- (a) to remove the names and addresses of directors named in the articles of incorporation;
  - (b) to remove the name and address of the initial registered agent and registered office, provided a statement pursuant to § 5.10 is also filed;
  - (c) to increase, decrease, create or eliminate the par value of the shares of any class, so long as no class or series of shares is adversely affected.
  - (d) to split the issued whole shares and unissued authorized shares by multiplying them by a whole number, so long as no class or series is adversely affected thereby;
  - (e) to change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd." for a similar word or abbreviation in the name, or by adding a geographical attribution to the name;
  - (f) to reduce the authorized shares of any class pursuant to a cancellation statement filed in accordance with § 9.05.
  - (g) to restate the articles of incorporation as currently amended. (§ 10.15)
- NOTE 4:** All amendments not adopted under § 10.10 or § 10.15 require (1) that the board of directors adopt a resolution setting forth the proposed amendment and (2) that the shareholders approve the amendment.
- Shareholder approval may be (1) by vote at a shareholders' meeting (*either annual or special*) or (2) by consent, in writing, without a meeting.
- To be adopted, the amendment must receive the affirmative vote or consent of the holders of at least 2/3 of the outstanding shares entitled to vote on the amendment (*but if class voting applies, then also at least a 2/3 vote within each class is required*).
- The articles of incorporation may supersede the 2/3 vote requirement by specifying any smaller or larger vote requirement not less than a majority of the outstanding shares entitled to vote and not less than a majority within each class when class voting applies. (§ 10.20)
- NOTE 5:** When shareholder approval is by consent, all shareholders must be given notice of the proposed amendment at least 5 days before the consent is signed. If the amendment is adopted, shareholders who have not signed the consent must be promptly notified of the passage of the amendment. (§§ 7.10 & 10.20)

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## ARTICLES OF AMENDMENT ATTACHMENT

Notwithstanding anything to the contrary in the Articles of Incorporation of the Corporation, the following shall apply to the Corporation.

Article 3. Purpose or purposes for which corporation is organized:

The Corporation shall operate the real property and building commonly known as 4505 S. Drexel Avenue Chicago, Illinois, 60653 ("Facility"). The Corporation shall not have any assets other than, as applicable, those related to the operation of the Facility, and receivables resulting from loans made by the Corporation which are authorized pursuant to Article 7(23) hereof.

Article 7. Other provisions.

The Corporation shall at all times be a "Single Purpose Entity," as that term is defined in that certain loan agreement ("Loan Agreement") by and between Nomura Asset Capital Corporation, as lender (together with its successors and assigns hereinafter referred to as "Lender"), and 2320 South Lawndale, L.L.C., Avenue Associates, L.L.C., and Boulevard Property, L.L.C., as borrowers. In addition, the Corporation at all times shall comply with each and all of the following requirements:

(1) The Corporation was organized solely for the purpose of operating the Facility, and the Corporation shall not engage in any business unrelated to the operation of the Facility; provided, however, that, in addition to the above, the Corporation may make loans which are authorized by Article 7(23) hereof;

(2) The Corporation shall not have any assets other than those related to the Facility, and receivables resulting from loans made by the Corporation which are authorized pursuant to Article 7(23) hereof.

(3) Until the Indebtedness (as defined in the Loan Agreement) is paid in full, the Corporation is hereby prohibited from engaging in, seeking, or consenting to, any dissolution, winding up, liquidation, consolidation, merger, asset sale, transfer of membership interests, or amendments of articles of incorporation;

(4) The Corporation shall have at least one Independent Director. The term "Independent Director" means a duly appointed member of the board of directors of the Corporation who shall not have been, at the time of such appointment or at any time in the preceding five (5) years, (a) a direct or indirect legal or beneficial owner in such entity or any of its affiliates, (b) a

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creditor, supplier, employee, officer, director, manager or contractor of such entity or any of its affiliates, or (c) a person who controls such entity or its affiliates;

(5) The Corporation shall not cause or allow the board of directors of the Corporation to take any action requiring the unanimous affirmative vote of 100% of the members of the board of directors unless all of the directors, including the Independent Director, shall have participated in such vote;

(6) The Corporation shall not fail to correct any known misunderstanding regarding the separate identity of the Corporation;

(7) Without the unanimous consent of all the directors, the Corporation shall not file a bankruptcy or insolvency petition or otherwise institute insolvency proceedings with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest;

(8) The Corporation shall maintain its accounts, books and records separate from any other person or entity;

(9) The Corporation shall maintain its books, records, resolutions and agreements as official records;

(10) The Corporation shall not commingle its funds or assets with those of any other entity;

(11) The Corporation shall hold its assets in its own name;

(12) The Corporation shall conduct its business in its name;

(13) The Corporation shall maintain its financial statements, accounting records, and other entity documents separate from any other person or entity;

(14) The Corporation shall pay its own liabilities out of its funds and assets;

(15) The Corporation shall observe all corporate formalities;

(16) The Corporation shall maintain an arm's length relationship with any affiliates;

(17) The Corporation shall have no indebtedness other than unsecured trade payables which are in the ordinary course of business relating to the ownership and operation of the Facility, which are paid within one hundred twenty (120) days of the date incurred, (ii) indebtedness secured by liens upon the accounts

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receivable of the Corporation, and (iii) other indebtedness permitted under the Master Lease (as defined in the Loan Agreement);

(18) The Corporation shall not assume or become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of any other entity except for liabilities permitted by the Loan Agreement and the Master Lease (as defined in the Loan Agreement); the corporation shall not guaranty the obligations of any other entity.

(19) The Corporation shall not acquire obligations or securities of its shareholders or their affiliates;

(20) The Corporation shall allocate fairly and reasonably any overhead for any shared expenses including, without limitation, shared office space and shall use separate stationary, invoices and checks;

(21) Except for the Indebtedness, as defined in the Loan Agreement, and liens securing the indebtedness permitted under item (17) hereinabove, the Corporation shall not pledge its assets for the benefit of any other person or entity;

(22) The Corporation shall hold itself out and identify itself as a separate and distinct entity under its own name and not as a division or part of any other person or entity;

(23) The Corporation shall not make loans to any person or entity; provided, however, that the Corporation may make loans to Affiliates (as defined in the Loan Agreement) other than (i) any entity which is a borrower under any loan facility with Lender, (ii) any entity which is required to be a Single Purpose Entity pursuant to a loan agreement with Lender, or (iii) any "operator" as defined by any loan agreement with Lender, on terms which are intrinsically fair and are no less favorable to the Corporation than those terms which would be obtained in a comparable arm's length transaction with an unrelated third party; provided, however, under no circumstances shall the Corporation make any loan to any person or entity unless, at the time of making any loan, the Corporation has paid in full all of its then due and payable obligations to any person or entity, including without limitation the Corporation's obligations under the Master Lease (as defined in the Loan Agreement);

(24) The Corporation shall not identify its shareholders or any affiliates of either as a division or part of the Corporation;

(25) The Corporation shall not enter into or be a party to, any transaction with its shareholders or affiliates except in the ordinary course of its business and on terms which are

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intrinsicly fair and are no less favorable to the Corporation than those terms which would be obtained in a comparable arm's length transaction with an unrelated third party.

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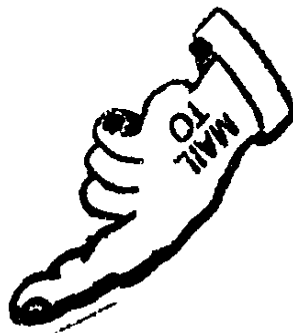
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ETD 12-13-86

Bruce Vanyek  
Chuhak & Tecson  
225 W. Washington, Suite 1300  
Chicago, Illinois 60606