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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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10/27/09

KEVIN T. WELLS, ESQ.
DAVID C. MEYER, ESQ., L.L.M.*
KAREN L. KUSKIN, ESQ.
ROBERT L. TODD, ESQ.

THE LAW OFFICES OF
KEVIN T. WELLS, P.A.

CONDOMINIUM, HOMEOWNER,
COOPERATIVE, MASTER
AND COMMUNITY ASSOCIATIONS
CIVIL LITIGATION

1800 SECOND STREET, SUITE 803
SARASOTA, FL 34236
TELEPHONE (941) 366-9191
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EMAIL KWELLS@KEVINWELLSPA.COM
EMAIL DMEYER@KEVINWELLSPA.COM
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October 22, 2009

*LLM - REAL PROPERTY
AND LAND DEVELOPMENT

Florida Secretary of State
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Re: Certificate of Amendment
Tivoli by the Sea Association, Inc.

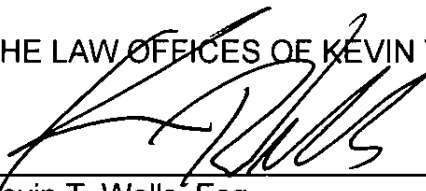
Dear Sir or Madam:

Please file the enclosed original Certificate of Amendment and amendments to the Articles of Incorporation for the above-referenced corporation. Also enclosed is a check from the Association in the amount of \$43.75 for the filing fee and certified copy fee. Please return a **certified copy** to the undersigned at your earliest convenience.

Thank you for your assistance in this matter.

Very truly yours,

THE LAW OFFICES OF KEVIN T. WELLS, P.A.



Kevin T. Wells, Esq.

KTW/elp
Enclosures

FILED

2009 OCT 26 PM 4:34

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

PROPOSED AMENDMENTS
ARTICLES OF INCORPORATION
OF
TIVOLI BY THE SEA ASSOCIATION INC.
(A Corporation Not For Profit)

[Additions are indicated by underline; deletions by ~~strike-through~~]

The members of TIVOLI BY THE SEA ASSOCIATION, INC., (herein, the "Association" or "Corporation"), located in Sarasota County, Florida, adopt these amendments to the Articles of Incorporation. The original Articles of Incorporation of the Association were filed with the Secretary of State of Florida on July 12, 1973. The original Declaration of Condominium of Tivoli By the Sea, a Condominium, was recorded in the Official Records Book 1077, Page 292 et seq. of the Official Records of Sarasota County, Florida.

~~THE UNDERSIGNED, Subscribers to these Articles of Incorporation, each a natural person competent to contract, hereby associate themselves together to form a Corporation Not For Profit, pursuant to Chapter 617, of the Laws of the State of Florida.~~

ARTICLE I.
NAME

The name of this Corporation shall be: **TIVOLI BY THE SEA ASSOCIATION INC.**

ARTICLE II.
ADDRESS

~~PRINCIPAL OFFICE:~~ The principal office of said Corporation shall be located at 625 Beach Road, Sarasota, FL 34242, and the Board of Directors of the Association may change the location of the principal office of said Association from time to time.

ARTICLE III.
PURPOSE

PURPOSE: The purpose for which the Association is organized is to provide an entity pursuant to Chapter 718, Florida Statutes (herein, the "Condominium Act"), for the operation of TIVOLI BY THE SEA, A CONDOMINIUM, located in Sarasota County, Florida, hereinafter referred to as the "Condominium". The Association shall be organized as a Florida corporation not for profit. As such, it shall issue no stock and make no distribution of income to its members, directors or officers.

~~The purposes of this Corporation are to provide by purchase, lease or otherwise, maintain and manage common social and recreational facilities for members of the Corporation at TIVOLI BY THE SEA, A Condominium, hereinafter referred to as the~~

~~“CONDOMINIUM”, situate in Sarasota County, Florida; to provide utility services to and to maintain the common elements of the Condominium including lawns, grounds, roads and walkways, to maintain and paint outside walls of Units of members, to provide garbage and trash removal for the Condominium and all Units thereof, to provide fire and extended coverage insurance to the value thereof on the common elements and to the extent required by law, on each Unit, to assess, collect and pay common obligations, to provide public liability insurance on common elements, to the extent required by law and to protect the aesthetic qualities and beauty of the Condominium; to promulgate rules and regulations governing the use of the common recreational and social facilities and grounds of the Condominium, as well as use and occupancy of the Units; to undertake such activities and projects as will unite in companionship its members and insure the continuation of enjoyable living conditions at the Condominium; and such other purposes as provided by law, the Association By-Laws, or the Declaration of Condominium of TIVOLI BY THE SEA. In order to carry out these purposes, the Corporation shall have the powers provided by Florida Statute 617.023, as amended from time to time, as well as all other express or implied powers of Corporations Not For Profit, provided or allowed by or through the Laws of the State of Florida.~~

ARTICLE IV. POWERS

4.1 Common Law and Statutory Powers. The Association shall have all of the common law and statutory powers of a corporation not for profit, not in conflict with the terms of these Articles of Incorporation, the Association Bylaws, the Declaration of Condominium or the Condominium Act.

4.2 Specific Powers. The Association shall have all of the powers and duties set forth in the Condominium Act and those set forth in the Declaration of Condominium (herein, the “Declaration”) and the Association Bylaws, as they may be amended from time to time; and all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration and the Condominium Act, including, but not limited to, the following:

A. To make, amend and collect annual and special assessments against members as unit owners to defray the expenses and losses of the Association.

B. To use the proceeds of assessments in the exercise of its powers and duties.

C. To maintain, repair, alter, improve, replace, administer and operate the condominium property, which shall include the irrevocable right of access to each unit during reasonable hours when necessary for the inspection, maintenance, repair or replacement of any common elements or any portion of the unit to be maintained by the Association pursuant to the Declaration or as necessary to inspect and/or prevent damage to the common elements or a unit or units.

D. To purchase insurance upon the condominium property and insurance for the protection of the Association and its members as unit owners.

E. To reconstruct improvements after casualty and to further improve the condominium property.

F. To make and amend reasonable rules regarding the use and occupancy of the units and common elements of the Condominium.

G. To approve or disapprove the transfer, lease, mortgage and ownership of units in the Condominium and operate a rental or sales office at the condominium property for the rental or sales of units in the Condominium.

H. To enforce by legal means the provisions of the Condominium Act, the Declaration, these Articles of Incorporation, the Association Bylaws and the Association Rules.

I. To contract for the management, operation, administration and maintenance of the condominium property and to delegate to such contractor any powers and duties of the Association, except such as are specifically required by the Declaration, these Articles of Incorporation, the Association Bylaws or by the Condominium Act to have the approval of the Board of Directors or the membership.

J. To employ (as an employee or independent contractor) personnel for reasonable compensation to perform the services required for proper administration and operation of the Condominium and to sell and lease units in the Condominium.

K. To enter into agreements acquiring leaseholds, membership and other possessory or use interests in lands or facilities, whether or not contiguous to the lands of the Condominium, intended to provide for the enjoyment, recreation or other use benefits of the unit owners.

L. In the event of an emergency as defined herein, the Board of Directors may exercise the emergency powers described herein, and any other powers authorized by the provisions of Section 718.1265, Florida Statutes (2008) and Sections 617.0207 and 617.0303, Florida Statutes, all as amended from time to time. For purposes of this Section only, an emergency exists during a period of time that the Condominium, or the immediate geographic area in which the Condominium is located, is subjected to: a state of emergency declared by civil or law enforcement authorities; a hurricane watch or warning as issued by a governmental authority; a partial or complete evacuation order issued by civil or law enforcement authorities; the declaration of a federal or state "disaster area" status; or catastrophe, whether natural or manmade, which seriously damages, or threatens to seriously damage the physical existence of the Condominium. During an emergency as defined herein, the Board of Directors may exercise the following emergency powers:

1. Conduct Board meetings and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including

publication, telephone, radio, United States mail, email, the Internet, public service announcements, and conspicuous posting on the condominium property or any other means the Board deems reasonable under the circumstances. Notice of Board decisions may be communicated as provided in this Section. The directors in attendance at such a Board meeting (if more than one (1) director) shall constitute a quorum.

2. Cancel and reschedule any Association Board, membership or committee meeting.

3. Name as interim assistant officers persons who are not directors, which assistant officers shall have the same authority as the executive officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any officer of the Association.

4. Relocate the Association's principal office or designate alternative principal offices.

5. Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

6. Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, electricity; water, sewer, or security systems; or air conditioners.

7. Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board, determine any portion of the condominium property unavailable for entry or occupancy by unit owners, family members, tenants, guests, agents, or invitees to protect the health, safety, or welfare of such persons.

8. Require the evacuation of the condominium property in the event of a mandatory evacuation order in the locale in which the Condominium is located. Should any unit owner or other occupant of the Condominium fail or refuse to evacuate the condominium property where the Board has required evacuation, the Association shall be immune from liability or injury to persons or property arising from such failure or refusal.

9. Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board, determine whether the condominium property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the Declaration.

10. Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of mold, mildew or fungus by removing and disposing of wet drywall, insulation, carpet, carpet pad, baseboards, air

ducts, cabinetry, any and all personal property or belongings of the resident or owner, including but not limited to furniture, clothes, mattresses, and all other fixtures on or within the condominium property, even if the unit owner is obligated by the Declaration or law to insure or replace those fixtures and to remove personal property from a unit.

11. Contract, on behalf of any unit owner or owners, for items or services for which the owners are otherwise individually responsible for, but which are necessary to prevent further damage to the condominium property. In such event, the unit owner or owners on whose behalf the Board has contracted are responsible for reimbursing the Association for the actual costs of the items or services, and the Association may use its assessment and claim of lien authority provided by Section 718.116, Florida Statutes and in the Declaration of Condominium to enforce collection of the charges. Without limitation, such items or services may include the drying of units, the boarding or other enclosure of broken or damaged windows, sliding glass doors, exterior doors, and the replacement of damaged air conditioners or air handlers to provide climate control in the units or other portions of the Condominium Property.

12. Regardless of any provision to the contrary and even if such authority does not specifically appear in the Declaration of Condominium, Articles of Incorporation, or Association Bylaws, the Association's Board of Directors may levy one or more special assessments without a vote of the owners.

13. Without unit owners' approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money, subject to such restrictions as are contained in the Declaration of Condominium, Articles of Incorporation, or Association Bylaws.

14. Corporate action taken in good faith to meet the emergency needs of the Association or its unit owners shall bind the Association; have the rebuttable presumption of being reasonable and necessary; and may not be used to impose liability on a director, officer, or employee. An officer, director, or employee acting in good faith and in accordance with this Section is only liable for willful misconduct.

The special powers authorized above in this Article 4.2.1 shall be limited to the time period reasonably necessary to protect the health, safety, and welfare of the Association and the unit owners and the unit owners' family members, tenants, guests, agents, or invitees and shall be reasonably necessary to mitigate further damage and make emergency repairs to the condominium property.

4.3 Assets Held in Trust. All funds and the titles of all properties acquired by the Association and the proceeds thereof shall be held in trust for the members in accordance with the provisions of the Condominium Act, the Declaration, these Articles of Incorporation and the Association Bylaws.

ARTICLE V.
TERM

~~TERM OF EXISTENCE:~~ The term for which this Corporation is to exist shall be perpetual, unless sooner dissolved pursuant to provisions of Florida Statute 617, as Amended.

ARTICLE VI.
MEMBERS

~~QUALIFICATION OF MEMBERS AND MANNER OF ADMISSION:~~

~~**6.1 Membership.** The members of this Corporation shall consist all the record owners of units in the Condominium shown by recordation of a deed or other instrument in the Public Records of Sarasota County. After the termination of the Condominium, the membership shall consist of those who are members at the time of such termination, their successors and assigns. initially of the undersigned subscribers and, thereafter, such other persons as may, from time to time, be admitted to membership by the Board of Directors of the Corporation, in accordance with the provisions of the By-Laws of the Corporation.~~

~~**6.2 Change of Membership.** After receiving written approval of the Association's Board of Directors required by the Declaration, change of membership in the Association shall be established by the recording in the Public Records of Sarasota County, Florida, a deed or other instrument establishing title to a unit in the Condominium and the delivery to the Association of a copy of such instrument within thirty (30) days of the recording of the deed. The Association may require the owner to provide a certified copy of the instrument. The owner designated by such instrument thereby becomes a member of the Association and the membership of the prior owner is terminated.~~

~~**6.3 Limitation on Transfer of Shares of Assets.** The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the member's condominium unit.~~

~~**6.4 Vote.** The owner of each unit shall be entitled to one (1) vote, as a member of the Association. The manner of exercising voting rights shall be determined by the Declaration, these Articles of Incorporation and the Association Bylaws.~~

ARTICLE VII.
BOARD OF DIRECTORS

~~**7.1 Board of Directors.** The affairs of the Association shall be managed by the Board of Directors, composed as provided in the Association Bylaws, but in no event consisting of less than three (3) directors. A director must fulfill all requirements of eligibility provided in the Association Bylaws and Declaration.~~

7.2. Election of Directors. Directors of the Association shall be elected at the annual meeting of members in the manner determined by the Association Bylaws and the Condominium Act. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Association Bylaws and the Condominium Act.

ARTICLE VIII. OFFICERS

The affairs of the Association shall be administered, as directed by the Board, by the officers designated in the Association Bylaws. The officers shall be elected by the Board of Directors at its organizational meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors.

~~OFFICERS AND DIRECTORS: The affairs of this Corporation shall be managed by a governing Board called the Board of Directors, who shall be elected at the Annual Meeting of the Corporation. Vacancies on the Board of Directors may be filled until the next Annual Meeting, in such manner as provided by the By Laws. The officers shall be: a President, Vice President, Secretary and Treasurer, and such other officers as may be provided or permitted by the Association By Laws. They shall be elected by the Board of Directors. The officers and members of the Board shall perform such duties, hold office for such terms, and take office at such times as shall be provided by the By Laws of the Corporation.~~

ARTICLE IX.

~~DIRECTORS: The number of Directors shall initially be three (3). The number may be increased or decreased as provided in the By Laws of the Corporation, but shall never be less than three (3).~~

ARTICLE IX. INDEMNIFICATION

9.1 Indemnification. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, officer or committee member of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed Indemnitee, that he did not act in good faith, nor in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action suit, or proceedings by judgment, order, settlement, conviction or upon a plea of nolo contendere or its

equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

9.2 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding, upon receipt of an agreement signed by the affected director, officer or committee member to repay such amount unless it shall ultimately be determined that the director, officer or committee member is entitled to be indemnified by the Association as authorized in this Article IX or as otherwise permitted by law.

9.3 Expenses. To the extent that a director, officer or committee member has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this Article IX, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

9.4 Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled to under any by-law, agreement, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

9.5 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer or committee member against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

9.6 Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article IX shall not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.

9.7 Intent and Interpretation. It is the intention of the membership, by the adoption of this provision, to provide the Association's directors, officers and committee members the most comprehensive indemnification permitted under Florida law. Therefore, this Article IX shall be so interpreted. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be otherwise entitled.

ARTICLE X. BYLAWS

BY-LAWS: The Association Bylaws may be amended in the manner provided in the Bylaws. The By-Laws of this Corporation may be altered, amended or repealed, and new By-Laws may be adopted by a two-thirds (2/3rds) vote of the members present

~~and voting at any regular Annual Meeting of the Corporation, or at any Special Meeting called for that purpose, if at least fifteen (15) days written notice is given in advance of any such meeting of intention to alter, amend or repeal, or to adopt new By Laws at such meeting.~~

ARTICLE XI.
AMENDMENT

~~AMENDMENT OF ARTICLES OF INCORPORATION:~~ These Articles may be amended by a two-thirds (2/3rds) vote of the members present (in person or by proxy) and voting at any regular Annual or Special Membership Meeting of the Corporation, provided, however, that these Articles of Incorporation shall not be amended unless written notice is first given of the proposed amendment to each and every member of the Corporation, not less than fourteen (14) fifteen (15) days prior to the meeting of the Corporation, published fifteen (15) A copy of each amendment shall be filed with the Secretary of State and shall be recorded in the Public Records of Sarasota County, Florida, along with a certificate of amendment executed by the appropriate officers of the Association attesting that the amendment has been lawfully adopted.

ARTICLE XII.
REGISTERED OFFICE AND AGENT

The registered agent and office of the Association, until otherwise determined by the Board of Directors, shall be The Law Offices of Kevin T. Wells, P.A. at the address of 1800 Second Street, Suite 803, Sarasota, FL 34236.

ARTICLE XIII. VI.
SUBSCRIBERS

~~NAMES AND RESIDENCES OF SUBSCRIBERS:~~ The names and residences of the original subscribers to these Articles are as follows:

NAME	RESIDENCE
HARVEY J. ABEL	5575 Shadow Lawn Drive, Sarasota, Florida 33581
ROBERT P. ROSIN	517 Bird Key Drive, Sarasota, Florida
BETTY P. TAYLOR	2240 Wisteria Street, Sarasota, Florida 33579

Prepared by and return to:
Kevin T. Wells, Esq.
The Law Offices of Kevin T. Wells, P.A.
1800 Second Street, Suite 803
Sarasota, Florida 34236
(941) 366-9191 (Telephone)
(941) 366-9292 (Facsimile)

CERTIFICATE OF AMENDMENT

ARTICLES OF INCORPORATION

**TIVOLI BY THE SEA ASSOCIATION, INC.
A Florida Not For Profit Corporation**

We hereby certify that the attached amendments to the Articles of Incorporation of TIVOLI BY THE SEA ASSOCIATION INC. (the "Association"), a Florida corporation not-for-profit, were adopted by the affirmative vote of not less than two-third (2/3rds) of the members present (in person or by proxy) and voting at the Annual Membership Meeting of the Association held on October 10, 2009, which is sufficient for adoption under Article X of the Articles of Incorporation of the Association. The Association further certifies that the attached amendments were proposed and adopted as required by the governing documents and by Florida law.

DATED this 19 day of October, 2009.

Signed, sealed and delivered
in the presence of:

Sign: [Signature]
Print: John Dooley

Sign: [Signature]
Print: Amy Tobin

Sign: [Signature]
Print: John Dooley

Sign: [Signature]
Print: Amy Tobin

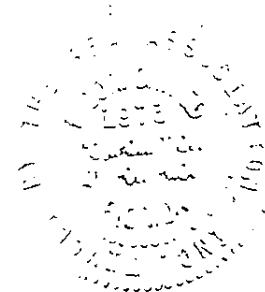
**TIVOLI BY THE SEA ASSOCIATION,
INC.**

By: [Signature]
Larry Berberich, President

ATTEST:

By: [Signature]
Martin Lott, Secretary

(Corporate Seal)




STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 19 day of October, 2009, by Larry Berberich as President of Tivoli by the Sea Association, Inc., a Florida not for profit corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.



Notary Public


Sign: 
Print: Traci Cavanaugh
State of Florida at Large
My commission expires:

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 19 day of October, 2009, by Martin Lott as Secretary of Tivoli by the Sea Association, Inc., a Florida not for profit corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.



Notary Public

Sign: 
Print: Traci Cavanaugh
State of Florida at Large
My commission expires: