

JUL-27-2000 10:2

GLISTER JAKL

P.01/11

N00000004924

Florida Department of State
Division of Corporations
Public Access System
Katherine Harris, Secretary of State

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H00000039483 3)))

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To:

Division of Corporations
Fax Number : (850) 922-4001

From:

Account Name : GUNSTER, YOAKLEY, ETAL. (WEST PALM BEACH)
Account Number : 076117000420
Phone : (561) 650-0728
Fax Number : (561) 655-5677

FILED
00 JUL 27 AM 10:56
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FLORIDA NON-PROFIT CORPORATION

Tuscany At Heron Bay Homeowners' Association, Inc.

Certificate of Status	1
Certified Copy	1
Page Count	10
Estimated Charge	\$87.50

Electronic Filing Menu

Corporate Filing

Public Access Help

FILED
00-JUL 27 AM 10:56
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION
of
TUSCANY AT HERON BAY HOMEOWNERS' ASSOCIATION, INC.
(a Florida corporation not for profit)

ARTICLE I
NAME AND ADDRESS

The name of this corporation shall be **TUSCANY AT HERON BAY HOMEOWNERS' ASSOCIATION, INC.** (hereinafter referred to as the "HOMEOWNERS' ASSOCIATION"). The mailing and principal office address of the HOMEOWNERS' ASSOCIATION shall be 11575 Heron Bay Boulevard, Coral Springs, Florida 33076. The HOMEOWNERS' ASSOCIATION is NOT a condominium association under Chapter 718, Florida Statutes. All books and records of the HOMEOWNERS' ASSOCIATION shall be kept at its principal office.

ARTICLE II
DEFINITIONS

A. "Board" or "Board of Directors" shall herein mean and refer to the Board of Directors of the HOMEOWNERS' ASSOCIATION.

B. All terms which are defined in the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TUSCANY AT HERON BAY, and any amendments or supplements thereto (hereinafter referred to as the "RESTRICTIONS"), to be recorded in the Public Records of Broward County, Florida, shall be used herein with the same meanings as defined in said RESTRICTIONS.

ARTICLE III
PURPOSES

The purposes for which this HOMEOWNERS' ASSOCIATION is organized are to operate and maintain the Common Areas; to own the Common Areas (when and if conveyed to it) or such other property; to promote the use and enjoyment of the Development by the Owners and occupants thereof; and to fulfill its obligations, all in accordance with and pursuant to these Articles of Incorporation and the RESTRICTIONS. The HOMEOWNERS' ASSOCIATION is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any Member or individual person, firm or corporation.

ARTICLE IV
GENERAL POWERS

The general powers that the HOMEOWNERS' ASSOCIATION shall have are as follows:

A. To have all powers conferred upon a corporation not for profit by the laws of the State of Florida, except as may be prohibited herein.

B. To do all of the acts required to be performed by it in accordance with these Articles of Incorporation, the RESTRICTIONS, or any other instrument recorded in the Public Records of Broward County, Florida.

C. To own, operate, maintain, construct, improve, replace and repair the Common Areas in the Development, including, but not limited to, real property used for roadway, recreational, drainage, landscaping, buffer or irrigation purposes, in accordance with these Articles of Incorporation, the RESTRICTIONS, or any other instrument recorded in the Public Records of Broward County, Florida.

D. To purchase, lease, hold, sell, mortgage or otherwise acquire or dispose of, real or personal property, except to the extent restricted hereby; to enter into, make, perform or carry out contracts of every kind with any person, firm, corporation, association or other entity; to do any and all of the activities and pursue any and all of the objects and purposes set forth in these Articles of Incorporation and not forbidden by the laws of the State of Florida.

E. To make, levy and collect assessments and late charges (as described in the RESTRICTIONS) against Lots in the Development to defray the expenses and the cost of effectuating the objects and purposes of the HOMEOWNERS' ASSOCIATION, and to create reasonable reserves for such expenditures as deemed necessary, and to authorize its Board of Directors, in its discretion, to enter into agreements with banks in Florida or other organizations in Florida for the collection of such assessments.

F. To charge recipients for services rendered by the HOMEOWNERS' ASSOCIATION when such is deemed appropriate by the Board of Directors.

G. To pay taxes and other charges on or against property owned or accepted by the HOMEOWNERS' ASSOCIATION.

H. To promulgate and enforce Rules and Regulations, and agreements to effectuate the purposes for which the HOMEOWNERS' ASSOCIATION is organized.

I. Notwithstanding anything contained herein to the contrary, the HOMEOWNERS' ASSOCIATION shall not have the power to, and shall not, engage in or carry on propaganda or otherwise attempt to influence legislation addressing any and all issues including, but not limited to, zoning, environmental, and land use, or participate or intervene, directly or indirectly in any political campaign on behalf of, or in opposition to, any candidate for office, whether public, quasi-public or private, or otherwise engage in or carry on any political action including the publishing or distribution of statements, nor shall Members perform any such activities in the name of the HOMEOWNERS' ASSOCIATION.

J. Notwithstanding anything contained herein to the contrary, the HOMEOWNERS' ASSOCIATION shall not have the power to, and shall not, expend Capital Contribution monies (as defined in the RESTRICTIONS) for any capital expenditures, in connection with the construction of a new capital improvement (except for necessary construction resulting from the damage or destruction of existing improvements), in excess of Five Thousand Dollars (\$5,000.00) without first complying with the applicable terms and provisions of the RESTRICTIONS. Further, the Capital Contribution reserve shall not be used by the HOMEOWNERS' ASSOCIATION for the purpose of litigation at either or both the trial and appellate levels in any court of competent jurisdiction, nor shall such reserves be used for operating funds.

K. To hold funds solely and exclusively for the benefit of the Members for purposes set forth in these Articles of Incorporation.

L. To delegate power or powers where such is deemed in the interest of the HOMEOWNERS' ASSOCIATION.

ARTICLE V

MEMBERS

The Members of the HOMEOWNERS' ASSOCIATION shall consist of the record property Owners of all of the Lots in the Development, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member. Membership shall be established effective immediately upon becoming an Owner; provided, however, that such new Member's rights shall not become effective until the new Member presents the HOMEOWNERS' ASSOCIATION with a recorded copy of the deed of conveyance or other muniment of title conveying the title to the Lot so conveyed, and such membership shall pass with title to the Lot in question as an appurtenance thereto with no such membership or rights arising therefrom being transferable in any manner except as an appurtenance to such Lot. Each and every Member shall be entitled to the benefits of membership and shall be bound to abide by the provisions of these Articles of Incorporation, the RESTRICTIONS and the By-Laws of the HOMEOWNERS' ASSOCIATION, as amended from time to time.

ARTICLE VI

VOTING AND ASSESSMENTS

A. The HOMEOWNERS' ASSOCIATION shall have two (2) classes of voting membership (Class A and Class B) as follows:

1. Class A Members shall be all those Owners as defined in Article V hereof with the exception of the Developer (as long as the Class B Membership shall exist, and thereafter, the Developer shall be a Class A Member to the extent it would otherwise qualify). Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Article V hereof. When more than one person holds such interest or

H00000039483 3

interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but, in no event shall more than one vote be cast with respect to any such Lot.

2. The Class B Member shall be the Developer. The Class B Member shall be entitled to one (1) vote, plus two (2) votes for each vote which the Class A Members are entitled to cast in the aggregate at any time and from time to time. The Class B Membership shall cease and terminate three (3) months after the date Ninety Percent (90%) of all Lots within the Development have been sold and conveyed by Developer (or its affiliates), or sooner at the sole election of the Developer, whereupon the Class A Members shall be obligated to elect a majority of the Board and assume control of the HOMEOWNERS' ASSOCIATION. Upon termination of the Class B Membership, the Developer shall remain a Class A Member with respect to those Lots which are then still owned by Developer.

B. The By-Laws of the HOMEOWNERS' ASSOCIATION shall provide for an annual meeting of Members and may make provisions for regular and special meetings of Members other than the annual meeting. The affirmative vote of at least a majority of the votes of the Members present, in person or by proxy, at any meeting of the Members duly called at which a quorum has been attained, shall be binding upon the Members. A quorum of the transaction of business at any meeting of Members shall exist if thirty percent (30%) of the total number of Members shall be present or represented at the meeting. Fractional voting is prohibited. There shall be no cumulative voting.

C. The HOMEOWNERS' ASSOCIATION will obtain funds with which to operate by assessment of its Members in accordance with the provisions of the RESTRICTIONS, as supplemented by the provisions of the Articles of Incorporation and By-Laws of the HOMEOWNERS' ASSOCIATION relating thereto.

ARTICLE VII **BOARD OF DIRECTORS**

A. The affairs of the HOMEOWNERS' ASSOCIATION shall be managed and conducted by a Board of Directors consisting of not less than three (3) but may consist of as many persons as the Board of Directors shall from time to time determine. The initial members of the Board of Directors shall serve until the first annual meeting of the Members. So long as the Developer shall have the right to appoint all of the Board of Directors, Directors need not be Members of the HOMEOWNERS' ASSOCIATION and need not be residents of the Development; thereafter, Directors shall be Members of the HOMEOWNERS' ASSOCIATION (except for those Directors who are appointed by the Developer).

B. Except as otherwise provided herein and except for the first Board of Directors, Directors shall be elected by the Members of the HOMEOWNERS' ASSOCIATION at the annual meeting of the membership as provided in the By-Laws of the HOMEOWNERS' ASSOCIATION, and said By-Laws may provide for the method of voting in the election and-for removal from office of Directors. Election shall be by plurality vote. Directors shall hold office

H00000039483 3

until the next succeeding annual meeting of Members, and thereafter until qualified successors are duly elected and have taken office. In no event may a Board member appointed by the Developer be removed except by action of Developer. Any Director appointed by the Developer shall serve at the pleasure of the Developer, and may be removed from office, and a successor Director appointed at any time by the Developer.

C. The names and addresses of the members of the first Board of Directors, who shall hold office until the first annual meeting of the HOMEOWNERS' ASSOCIATION, and until their successors are elected or appointed and have qualified, are as follows:

<u>Name</u>	<u>Address</u>
Kenneth W. Hayden	11575 Heron Bay Boulevard Coral Springs, Florida 33076
Andre Haluska	11575 Heron Bay Boulevard Coral Springs, Florida 33076
Mark J. Smietana	11575 Heron Bay Boulevard Coral Springs, Florida 33076

ARTICLE VIII **OFFICERS**

The officers of the HOMEOWNERS' ASSOCIATION shall be a President, a Secretary and a Treasurer, and such other officers as the Board may from time to time deem necessary. Any two (2) or more offices may be held by the same person except that the offices of President and Secretary may not be held by the same person.

ARTICLE IX **CORPORATE EXISTENCE**

The HOMEOWNERS' ASSOCIATION shall have perpetual existence.

ARTICLE X **BY-LAWS**

The Board of Directors may, from time to time, adopt, alter or rescind By-Laws not inconsistent with these Articles.

ARTICLE XI **AMENDMENT TO ARTICLES OF INCORPORATION**

These Articles of Incorporation may be amended in the following manner:

H00000039483 3

H00000039483 3

A. The Board of Directors, by majority vote, shall adopt a resolution setting forth the proposed Amendment and direct that it be submitted to vote at a meeting of the Members.

B. Notice of the subject matter of the proposed Amendment shall be included in the notice of any meeting (special or annual) at which such proposed Amendment is to be considered by the Members. Such notice shall set out in full the proposed amended article, section, subsection or paragraph of a subsection.

C. Such proposed Amendment shall be submitted to and approved by the Members at such meeting. Any number of Amendments may be submitted to the Members and voted upon at one (1) meeting. The proposed Amendment shall be adopted upon receiving the affirmative vote of at least a majority of the votes of the Members present, in person or by proxy, at such meeting at which a quorum has been attained.

D. An Amendment to these Articles of Incorporation may be made by a written statement signed by all Members eligible to vote in lieu of the above procedure.

E. Notwithstanding anything contained herein to the contrary, Article IV, Section I hereof shall not be amended or modified in any manner except upon receiving the affirmative vote of at least seventy-five (75%) percent of all Members.

F. Notwithstanding anything contained herein to the contrary, so long as Developer owns at least one (1) Lot in the Development, no Amendment to these Articles of Incorporation affecting the rights or privileges of WCI Communities Inc., a Delaware corporation, or its successors or assigns, as Developer, shall be effective without the prior written consent of Developer.

ARTICLE XII

INCORPORATOR

The name of the Incorporator of this corporation is Eleanor W. Taft, whose mailing address is WCI Communities, Inc., 24301 Walden Center Drive, Bonita Springs, Florida 34134.

ARTICLE XIII

INDEMNIFICATION OF OFFICERS AND DIRECTORS

Every Director and every Officer of the HOMEOWNERS' ASSOCIATION (and the Directors and Officers as a group) shall be indemnified by the HOMEOWNERS' ASSOCIATION against all expenses and liabilities, including counsel fees (at all trial and appellate levels) reasonably incurred by or imposed upon such person or persons in connection with any claim, proceeding, litigation or settlement in which they may become involved by reason of being or having been a Director or Officer of the HOMEOWNERS' ASSOCIATION. The foregoing provisions for indemnification shall apply whether or not such person is a Director or Officer at the time such expenses are incurred. Notwithstanding the above, in instances where a Director or Officer admits or is adjudged guilty by a court of competent jurisdiction of willful

H00000039483 3

misfeasance or malfeasance in the performance of such person's duties, the indemnification provisions of these Articles shall not apply. Otherwise, the foregoing rights to indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or Officer may be entitled, whether by statute or common law. No amendment to this Article which reduces or restricts the indemnity created herein may be adopted without the prior consent of each and every Officer and Director (whether current or former) affected by such amendment.

ARTICLE XIV **TRANSACTION IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

A. No contract or transaction between the HOMEOWNERS' ASSOCIATION and one or more of its Directors or Officers, or between the HOMEOWNERS' ASSOCIATION and any other corporation, partnership, association, or other organization in which one or more of its Directors or Officers are Directors or Officers or have a financial interest, shall be invalid, void or voidable solely for this reason, or solely because the Director or Officer is present at or participates in the meeting of the Board or a committee thereof which authorized the contract or transaction, or solely because his or their votes are counted for such purpose. No Director or Officer of the HOMEOWNERS' ASSOCIATION shall incur liability by reason of the fact that he is or may be interested in such contract or transaction.

B. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction.

ARTICLE XV **DISSOLUTION OF THE HOMEOWNERS' ASSOCIATION.**

A. Upon dissolution of the HOMEOWNERS' ASSOCIATION, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner and order:

1. Real property contributed to the HOMEOWNERS' ASSOCIATION without the receipt of other than nominal consideration by the Developer (or its successors in interest) shall be returned to the Developer (whether or not a Member at the time of such dissolution) unless it refuses to accept the conveyance (in whole or in part);

2. Dedication to applicable municipal or other governmental authority of such property (whether real, personal or mixed) as determined by the Board of Directors of the HOMEOWNERS' ASSOCIATION to be appropriate for dedication and which the authority is willing to accept; and

3. The remaining assets shall be distributed among the Members, subject to the limitations set forth below, as tenants in common, each Member's share of the assets to be determined in accordance with his voting rights.

B. The HOMEOWNERS' ASSOCIATION may be dissolved upon a resolution to that effect being approved by three-fourths (3/4) of the members of the Board of Directors; three-fourths (3/4) of the Members; and the filing of Articles of Dissolution with the Department of State as provided for in Section 617.1403, Florida Statutes.

ARTICLE XVI
GENDER

Wherever the male pronoun is used herein, it shall be understood to be the female pronoun if the context or sex of the party referred to so requires.

ARTICLE XVII
RESTRICTIONS

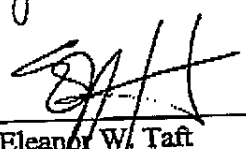
In the event of any conflict between the provisions of these Articles of Incorporation and the provisions of the RESTRICTIONS, the provisions of the RESTRICTIONS shall prevail.

ARTICLE XVIII
DESIGNATION OF REGISTERED AGENT

Vivien N. Hastings, is hereby designated as the HOMEOWNERS' ASSOCIATION'S Registered Agent for service of process within the State of Florida, and her street address is WCI Communities, Inc., 24301 Walden Center Drive, Bonita Springs, Florida 34134.

[SIGNATURES ON FOLLOWING PAGE]

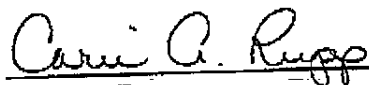
IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of Incorporation this 24 day of July, 2000.


Eleanor W. Taft
WCY Communities, Inc.
24301 Walden Center Drive
Bonita Springs, Florida 34134

STATE OF FLORIDA)
) ss:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 24 day of July, 2000 by Eleanor W. Taft, who is personally known to me.




Carin A. Rupp
Notary Public, State of Florida
My Commission Expires: 12/08/00
My Commission No.: CC 751157

[Notary Seal]

H00000039483 3

CONSENT OF REGISTERED AGENT

Vivien N. Hastings, whose street address is WCI Communities, Inc., 24301 Walden Center Drive, Bonita Springs, Florida 34134, hereby consents to her designation as Registered Agent in the foregoing Articles of Incorporation, and states that she is familiar with, and accepts, the obligations of that position as provided for in Section 617.0501, Florida Statutes.

Vivien N. Hastings
Vivien N. Hastings
WCI Communities, Inc.
24301 Walden Center Drive
Bonita Springs, Florida 34134

STATE OF FLORIDA)
)ss:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 24 day of July, 2000 by Vivien N. Hastings, who is personally known to me.

 Carin A. Rupp
Commission # CC 751157
Expires Dec. 8, 2000
BONDED THRU
ATLANTIC BONDING CO., INC

Carin A. Rupp
Carin A. Rupp
Notary Public, State of Florida
My Commission Expires: 12/08/00
My Commission No.: CC751157

[Notary Seal]

FILED
00 JUL 27 AM 10:56
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

H00000039483 3