

# N05000012792

Florida Department of State  
Division of Corporations  
Public Access System

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.

((H05000289767 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) 205-0381

From: Account Name : RUDEN, MCCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.  
Account Number : 076077000521  
Phone : (954) 527-2428  
Fax Number : (954) 333-4001

**FLORIDA NON-PROFIT CORPORATION**  
**HERITAGE BAY UMBRELLA ASSOCIATION, INC.**

Certificate of Status	1
Certified Copy	1
Page Count	06
Estimated Charge	\$87.50

2005 DEC 21 PM 12:17  
STATE  
SECRET  
FLORIDA

Electronic Filing Menu

Corporate Filing

Public Access Help

J 12/22/05

2005 DEC 21 PM 12:17

STATE  
TALLAHASSEE FLORIDA

**ARTICLES OF INCORPORATION  
OF  
HERITAGE BAY UMBRELLA ASSOCIATION, INC.  
(A Florida Corporation Not For Profit)**

In order to form a corporation not for profit under and in accordance with the provisions of Chapter 617 of the Florida Statutes, the undersigned hereby incorporates this corporation not for profit for the purposes and with the powers hereinafter set forth and, to that end, the undersigned, by these Articles of Incorporation, certifies as follows:

**ARTICLE I  
NAME AND ADDRESS**

The name of this corporation shall be HERITAGE BAY UMBRELLA ASSOCIATION, INC., a Florida corporation not for profit, whose principal address and mailing address is 5801 Pelican Bay Boulevard, Suite 600, Naples, Florida 34108. The terms defined in the Declaration of Covenants, Conditions, Easements and Restrictions for Heritage Bay Umbrella Association, Inc. ("Declaration"), are incorporated herein by reference and shall appear in initial capital letters each time such terms appear in these Articles.

**ARTICLE III  
PURPOSES AND POWERS**

This Association will not permit pecuniary gain or profit nor distribution of its income to its Members, Officers or Directors. It is a non-profit corporation formed for the purpose of establishing an owners association which will, subject to a Declaration of Covenants, Conditions, Easements and Restrictions for Heritage Bay Umbrella Association, Inc. (the "Declaration") to be recorded in the Public Records of Collier County, Florida, have the specific purposes and powers below:

**(A) Purposes:**

(1) To be and constitute the Association to which reference is made in the Declaration, as amended from time to time, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified in the Declaration, the Bylaws, and as provided by law.

(2) To fulfill all of the purposes listed above and to exercise all of the powers listed below with respect to the Land (as defined in the Declaration) under the jurisdiction of this Association through the recorded Declaration.

**(B) Powers:** The Association shall have all of the common law and statutory powers of a Florida corporation not for profit consistent with these Articles and with the Declaration, as may from time to time be amended, including, but not limited to, the power to:

H050002897673

(1) Fix, levy, collect and enforce payment by any lawful means of all charges, assessments or liens pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the corporation, including all license fees, taxes or governmental charges levied or imposed against the property of the corporation;

(2) Enforce any and all covenants, conditions, easements and restrictions applicable to the Common Property (as defined in the Declaration);

(3) Pay taxes, if any, on the Common Property;

(4) Borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(5) Dedicate, sell or transfer all or any part of the Common Property to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless at least three-quarters (3/4) of the Board consent to such dedication, sale or transfer;

(6) Purchase policies of insurance upon the Common Property and use the proceeds from policies, if any, to effectuate its purposes;

(7) Participate in mergers and consolidations with other non-profit corporations organized for the same or similar purposes, provided that merger, consolidation or annexation shall have the consent of at least three-quarters (3/4) of the Board;

(8) Enter into, make perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other entity or agency, public or private; and

(9) Exercise any and all powers, rights and privileges which a corporation organized under Chapters 617 and 720 of the Florida Statutes may now have or hereafter have subject always to the Declaration, as amended from time to time.

ARTICLE IV  
MEMBERSHIP AND VOTING

(A) The Association shall be a membership corporation without certificates or shares of stock.

(B) Membership and Voting Rights shall be as follows:

(1) Membership.

H050002897673

(a) There shall be a total of two (2) Members. Membership shall be appurtenant to and may not be separated from the governance of a Community. Bayvest shall appoint three (3) Directors to the Board of Directors of the Association and Centex shall appoint two (2) Directors to the Board of Directors of the Association. After Centex has acquired all of the Centex Property from Bayvest, Centex shall be entitled to appoint three (3) Directors to the Board and Bayvest shall be entitled to appoint two (2) Directors to the Board.

(b) Each Declarant shall remain a Member until such time as a Community Association is created to govern the Community, and the Declarant assigns and delegates its rights and duties under the Declaration to said Community Association. Thereafter, the Community Association shall replace the applicable Declarant as Member.

(2) Voting.

Members shall have no voting rights. All voting shall be vested in the Board of Directors.

ARTICLE V  
TERM

The term of the Association shall be perpetual. However, if the Association is dissolved, the Common Property, as defined in the Declaration, shall be conveyed to an appropriate local government agency. If it is not accepted by said agency, then the Common Property must be dedicated to a similar not-for-profit corporation.

ARTICLE VI  
BYLAWS

The Bylaws of the Association may be altered, amended or rescinded in the manner provided therein.

ARTICLE VII  
AMENDMENTS

Amendments to these Articles may be proposed and adopted as provided in Chapters 617 and 720, Florida Statutes, provided that no amendment may be in conflict with the Declaration, and further provided that no amendment shall be effective to impair or dilute any rights of Members that are governed by the Declaration.

ARTICLE VIII  
OFFICERS

The affairs of the Association shall be managed by the President of the Association, assisted by the Vice President(s), Secretary and Treasurer, and, if any, by the Assistant Secretary(ies) and Assistant Treasurer(s), subject to the directions of the Board. Except for officers elected by a Board

NAP:30191:4

H050002897673

consisting of appointees of Owners, officers must be Members, or the parents, children or spouses of Members.

The Board shall elect the President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall, from time to time, determine. The President shall be elected from amongst the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, the office of President and a Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

**ARTICLE IX**  
**FIRST OFFICERS**

The names of the officers who are to serve until the first election of officers by the Board are as follows:

- President - Dan Halloran
- Vice President - Russell Smith
- Asst. Secretary - Diana Unsinn
- Asst. Secretary - Frank Reynolds
- Treasurer - Tom Trongone

**ARTICLE X**  
**DIRECTORS**

(A) The affairs of the Association will be administered by a Board of Directors consisting of five (5) Directors. There shall be only one (1) vote for each Director. Centex shall be entitled to appoint three (3) Directors to the Board and Bayvest shall be entitled to appoint two (2) Directors to the Board until such time as each creates a Community Association. Thereafter, each Community Association shall be entitled to appoint the same number of Directors (i.e., three [3] from The Quarry Community Association and two [2] from Heritage Bay Community Association).

(B) The names and addresses of the persons who are to serve as Directors on the first Board are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
Dan Halloran	5801 Pelican Bay Boulevard Suite 600 Naples, FL 34108
Diana Unsinn	5801 Pelican Bay Boulevard Suite 600 Naples, FL 34108

17 050002877673

Tom Trongone	5801 Pelican Bay Boulevard Suite 600 Naples, FL 34108
Russell Smith	10481 Six Mile Cypress Parkway Fort Myers, FL 33912
Frank Reynolds	10481 Six Mile Cypress Parkway Fort Myers, FL 33912

(C) A Director may be removed from office only by the entity which appointed such Director for any reason deemed to be in the best interests of such Member.

(D) The resignation of a Director, whether or not he or she has been designated by Declarant or a Community Association, or the resignation of an officer of the Association who has been elected by the Board, shall be deemed to remise, release, acquit, satisfy and forever discharge such officer or Director of and from any and all manner of action(s), cause(s) of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Association or Members or Dwelling Unit Owners had, now have or will have or which any personal representative, successor, heir or assign of the Association or Members or Dwelling Unit Owners hereafter can, shall or may have against said officer or Director for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of such resignation, except for such Director's or officer's willful misconduct or gross negligence.

(E) The initial officers of the Association shall be appointed by the Board of Directors at an organizational meeting called by a majority of the Directors.

ARTICLE XI  
INITIAL REGISTERED AGENT

The name and address of the initial registered agent and registered office of the Association shall be Timothy J. Ruemler, 5801 Pelican Bay Boulevard, Suite 600, Naples, Florida 34108.

ARTICLE XII  
INDEMNIFICATION

To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and Officer of the Association against all expenses and liabilities, including any attorneys fees actually and reasonably incurred by or imposed on him/her in connection with any legal proceeding (or settlement or appeal proceeding) to which he/she may be a party because of his/her being or having been a Director or Officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his/her actions or omissions to act were material to the cause adjudicated and involved:

NAP:30191:4

14050002897673

(A) Willful misconduct or a conscious disregard for the best interest of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

(B) A violation of criminal law, unless the Director or Officer had no reasonable cause to believe his/her action was unlawful or had reasonable cause to believe his/her action was lawful.

(C) A transaction from which the Director or Officer derived an improper personal benefit.

(D) Wrongful conduct by Directors or Officers appointed by the Developer, in a proceeding brought by or on behalf of the Association.


In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or Officer may be entitled.

IN WITNESS WHEREOF, Timothy J. Ruemler does hereby execute these Articles of Incorporation this 19<sup>th</sup> day of December, 2005.

  
TIMOTHY J. RUEMLER, Incorporator

ACCEPTANCE OF REGISTERED AGENT

Having been named to accept service of process for Heritage Bay Umbrella Association, Inc., at the place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity and agree to comply with the laws of the State of Florida in keeping open said office.

  
TIMOTHY J. RUEMLER, Registered Agent

2005 DEC 21 PM 12:17  
ALLIANCE OF STATE  
FLORIDA