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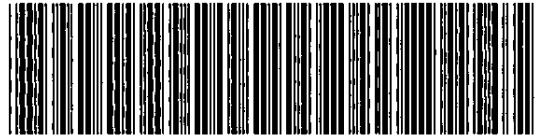
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SECRETARY OF STATE
TALLAHASSEE, FLORIDA
10 MAY 17 AM 10:06

Amerio Rest
C.COULLIETTE
MAY 19 2010
EXAMINER

KEVIN T. WELLS, ESQ.
KAREN L. KUSKIN, ESQ.
ROBERT L. TODD, ESQ.
SUE ELLEN KRICK, ESQ.

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

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

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SARASOTA, FL 34236
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EMAIL: SKRICK@KEVINWELLSPA.COM

May 13, 2010

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

Re: Certificate of Amendment
Windward Passage Condominium Association, Inc.

Dear Sir or Madam:

Please file the enclosed original Certificate of Amendment and Amended and Restated 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

AMENDED AND RESTATED

ARTICLES OF INCORPORATION

**WINDWARD PASSAGE CONDOMINIUM ASSOCIATION, INC.
A Florida corporation not-for-profit**

*[Substantial rewording of Articles of Incorporation.
See existing Articles of Incorporation for present text.]*

10 MAY 17 AM 10:06
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The members of **WINDWARD PASSAGE CONDOMINIUM ASSOCIATION, INC.** (herein, the "Association"), a Florida not for profit corporation, hereby amend and restate the Association's Articles of Incorporation as follows:

1. NAME AND ADDRESS.

The name of the corporation shall be **WINDWARD PASSAGE CONDOMINIUM ASSOCIATION, INC.** (herein, "the Association") and the principal office shall be in Sarasota County, Florida, at 4708 Ocean Blvd., Sarasota, Florida 34242.

2. PURPOSE.

2.1 **Purpose.** The purpose for which the Association is organized is to provide an entity pursuant to Chapter 718, Florida Statutes, as may be amended from time to time (herein, "the Condominium Act"), for the operation and management of the affairs and property of **WINDWARD PASSAGE, A CONDOMINIUM** (herein, the "Condominium"), located at 4708 Ocean Blvd., Sarasota, Florida 34242. The Declaration of Condominium for **WINDWARD PASSAGE, A CONDOMINIUM** is originally recorded in Official Records Book 1473, Page 1169 et seq. of the Public Records of Sarasota County, Florida.

2.2 **Distribution of Income.** The Association shall make no distribution of income to its members, Directors or officers.

3. POWERS.

The powers of the Association shall include but not be limited to the following:

3.1 **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 or the Condominium Act.

3.2 **Specific Powers.** The Association, by and through its Board of Directors, shall have all of the powers and duties set forth in the Condominium Act (Chapter 718, Florida Statutes), the Not For Profit Corporations Act (Chapter 617, Florida Statutes), those set forth in the Declaration of Condominium and the Bylaws of the Association, including, but not limited to, the following:

A. To purchase, accept, lease or otherwise acquire title to, and to hold, mortgage, rent, sell or otherwise dispose of, any and all real or personal property related to the purposes or activities of the Association.

B. To establish and amend an annual budget and make and collect annual and special assessments against its members as unit owners to defray the expenses and losses of the Association and to create and fund reasonable reserves.

C. To hold funds and use the proceeds of assessments in the exercise of its powers and duties and to borrow money; however, the Association shall not have the authority to mortgage the common elements.

D. To insure, maintain, repair, replace, alter, improve, and operate the common elements, condominium property and Association property and to maintain, preventatively maintain, repair, manage and operate the surface water management system facilities.

E. To purchase insurance upon the condominium property and insurance for the protection of the Association's directors, officers and its members as unit owners, and establish reasonable deductibles.

F. To reconstruct improvements after casualty and further improve the condominium property and Association property.

G. To make and amend reasonable rules regarding the condominium property, units and common elements; provided, however, that no such rule or amendment shall conflict with the rights of unit owners provided in the Declaration of Condominium.

H. To approve or disapprove the transfer, lease, occupancy, mortgage and ownership of units as provided in the Declaration of Condominium.

I. To enforce by all available legal and equitable means the terms and provisions of the Condominium Act, the Declaration of Condominium, these Articles of Incorporation, the Association Bylaws and the Association Rules.

J. To contract for the management and maintenance of the condominium property and to authorize a management agent to assist the Association in carrying out its powers and duties.

K. To employ attorneys, accountants, agents, and personnel to perform the services required for proper operation of the Condominium.

L. To purchase, sell, lease, and mortgage condominium units.

M. In the event of an emergency as defined in Article 3.5 herein, the Board of Directors may exercise the emergency powers described herein, and any other powers authorized

by Sections 617.0207, 617.0303 and 718.1265, Florida Statutes, all as amended from time to time.

N. To place liens against condominium units for unpaid assessments and to bring suit for foreclosure of such liens, obtain a monetary judgment against former and present unit owners and to otherwise enforce the collection of assessments and all other amounts due to the Association.

O. To make, enter into, perform and carry out contracts, to sue and be sued and to institute, maintain, settle, or appeal actions or hearings in its name on behalf of all owners concerning matters of common interest to most or all unit owners.

3.3 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 Declaration of Condominium, these Articles of Incorporation and the Association Bylaws.

3.4 Limitation on Exercise of Powers. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Condominium Act, the Declaration of Condominium, these Articles of Incorporation and the Association Bylaws.

3.5 Emergency Powers. For purposes of this Article 3.5 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:

A. Conduct board meetings and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, United States mail, 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 Article 3.5. A. The directors in attendance at such a Board meeting (if more than one (1) Director) shall constitute a quorum.

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

C. 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.

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

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

F. 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, shutting down or off elevators; electricity; water, sewer, or security systems; or air conditioners.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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 property.

L. 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.

M. 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.

N. Corporate action taken in good faith to meet the emergency needs of the Association or its unit owners shall: (1) bind the Association, (2) have the rebuttable presumption of being reasonable and necessary and (3) 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 Article 3.5 is only liable for willful misconduct.

The special powers authorized above in this Article 3.5 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. MEMBERS.

4.1 **Members.** The members of the Association shall consist of the owners of the units in WINDWARD PASSAGE, A CONDOMINIUM, as shown in the public records of Sarasota County, Florida. Owners of such units shall automatically become members upon acquisition of the fee simple title to their respective units. Upon termination of the Condominium, those persons who are members of the Association at the time of such termination shall continue to be members of the Association.

4.2 **Termination of Membership.** The membership of any member in the Association shall automatically terminate upon conveyance or other divestment of title to such member's unit, except that nothing herein contained shall be construed as terminating the membership of any member who may own two or more units so long as such member owns at least one unit.

4.3 **Limitation on Transfer of Shares of Assets.** The interest or 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 unit which is the basis of his membership in the Association.

4.4 **Membership Roster and Change of Membership.** The Association's Secretary or another person designated by the Board shall maintain a list of the members of the Association, their addresses, telephone numbers (if provided) and unit numbers. Whenever any person or entity becomes entitled to membership in the Association, it shall become such party's duty and obligation to so inform the Secretary or its designee in writing, giving the owner's name, current address, and unit number; provided however, that any notice given to or vote accepted from the prior owner of such unit before receipt of written notification of change of ownership shall be deemed to be properly given or received. The Secretary may, but shall not be required to, search the Public Records of Sarasota County or make any other inquiry to determine the status and correctness of the list of members of the Association. The Association shall be entitled to rely upon its membership list until notified in writing of any change. A member shall be required to promptly inform the Association in writing of any change to the member's address.

4.4 **Voting.** Each member shall be entitled to one (1) vote for each unit in which he holds a fee simple ownership. A vote is not divisible. The manner of exercising voting rights shall be determined by the Association Bylaws.

5. DIRECTORS.

5.1 **Board of Directors.** The affairs of the Association shall be managed by the Board consisting of five (5) Directors. Directors must fulfill all requirements of eligibility provided in the Bylaws and in the Condominium Act. Directors have a fiduciary duty to the Association members.

5.2 **Election of Directors.** The members shall elect the directors at the annual meeting of the members, in the manner determined by the Condominium Act and the Association Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

6. OFFICERS.

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

7. INDEMNIFICATION.

Every director and every officer of the Association shall be indemnified by the Association against all expenses and all liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time

such expenses are incurred, except when the director or officer is adjudged guilty of an act or omission to act which is material to the cause of action and which constitutes:

A. A violation of the criminal law. Unless the director or officer had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful;

B. A transaction from which the director or officer derived an improper personal benefit; or

C. Willful misconduct or a conscious disregard for the best interests of the Association in a proceeding by or in the right of the Association to procure a judgment in its favor or in a proceeding by or in the right of a member of the Association;

provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. 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 entitled. The Association may purchase and maintain insurance as a common expense on behalf of all officers and directors for any liability asserted against them or incurred by them in their capacity as officers and directors or arising out of their status as such.

8. BYLAWS.

The Bylaws of the Association shall be amended in the manner provided by the Bylaws.

9. AMENDMENTS.

Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

9.1 **Notice.** The text of a proposed amendment shall be included in or with the notice of any meeting at which a proposed amendment is considered.

9.2 **Proposal and Adoption.** An amendment may be proposed either by the Board of Directors or by thirty percent (30%) of the members of the Association. Except as elsewhere provided, such approvals must be by not less than two-thirds (2/3rds) of the Association's voting interests present (in person or by limited proxy) and voting at a membership meeting at which a quorum has attended.

9.3 **Limitation on Amendment.** No amendment to the Articles of Incorporation may change the qualifications for membership, voting rights or property rights of the members unless the amendment is approved in writing by all of the members and all record owners of mortgages upon units. No amendment shall be made that is in conflict with the laws of the State of Florida or the Declaration of Condominium of Windward Passage.

9.4 **Certification.** Each amendment shall be filed with the Florida Secretary of State and shall be recorded in the Public Records of Sarasota County, Florida.

10. TERM.

The term of the Association shall be perpetual.

11. REGISTERED OFFICE AND AGENT.

The registered office of the Association is 4712 Ocean Blvd. #4, Sarasota, Florida 34242 and the registered agent of the Association is Gregory T. Bier. The Board of Directors may change the Association's registered office and agent as it determines appropriate and in the manner provided by law.

12. ORIGINAL SUBSCRIBERS.

The names and addresses of the original subscribers of these Articles of Incorporation are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Alan C. Roberts	8620 Midnight Pass Road, Sarasota, Florida 33581
Laura Roberts	8620 Midnight Pass Road, Sarasota, Florida 33581
Robert W. Beaudry	Suite 1111, Ellis Bank Building, Sarasota, Florida 33581

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

**WINDWARD PASSAGE CONDOMINIUM ASSOCIATION, INC.
A Florida Not For Profit Corporation**

We hereby certify that the attached amendments to the Articles of Incorporation of WINDWARD PASSAGE CONDOMINIUM ASSOCIATION, INC. ("the Association"), a Florida corporation not-for-profit, were adopted by the affirmative vote of not less than two-thirds of all members of the Association at the Special Membership Meeting of the Association held on March 25, 2010, which is sufficient for adoption under Article 9 of the Articles of Incorporation of the Association. The Association further certifies that the amendments were proposed and adopted as required by the governing documents and by Florida law.

DATED this 12th day of May, 2010.

Signed, sealed and delivered:
in the presence of:

sign [Signature]
print Linda K. VanderVeen

**WINDWARD PASSAGE CONDOMINIUM
ASSOCIATION, INC.**

By: [Signature]
Art Patterson, President

sign [Signature]
print Estelle L. Pittman

Signed, sealed and delivered:
in the presence of:

sign [Signature]
print LINDA K. VANDERVEEN

Attest: [Signature]
William Kuhn, Secretary

sign [Signature]
print Estelle L. Pittman

(Corporate Seal)



STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 12th day of May, 2010, by Art Patterson as President of Windward Passage Condominium 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

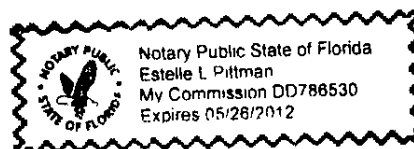
sign Estelle L. Pittman

print Estelle L. Pittman

State of Florida at Large (Seal)

My Commission Expires:

STATE OF FLORIDA
COUNTY OF SARASOTA



The foregoing instrument was acknowledged before me this 12th day of May, 2010, by William Kuhn as Secretary of Windward Passage Condominium 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 Estelle L. Pittman

print Estelle L. Pittman

State of Florida at Large (Seal)

My Commission Expires:

