

N00000001078



ACCOUNT NO. : 072100000032

REFERENCE : 592093, 81279A

AUTHORIZATION :

Debra Kinsey

COST LIMIT : \$ 78.75

ORDER DATE : February 17, 2000

ORDER TIME : 11:07 AM

ORDER NO. : 592093-005

CUSTOMER NO: 81279A

CUSTOMER: Debra Graff, Legal Asst
JOHN T. KINSEY, P.A.
JOHN T. KINSEY, P.A.
Suite 112
2300 Corporate Boulevard
Boca Raton, FL 33431

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
00 FEB 17 PM 3:45

DOMESTIC FILING

NAME: BEACH WALK HOMEOWNERS
ASSOCIATION, INC.

600003138636-4

EFFECTIVE DATE:

- ARTICLES OF INCORPORATION
- CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

- CERTIFIED COPY
- PLAIN STAMPED COPY
- CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Erika Carlson

EXAMINER'S INITIALS:

RECEIVED
00 FEB 17 PM 12:09
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

EC 2/17/00

**ARTICLES OF INCORPORATION
OF
BEACH WALK HOMEOWNERS ASSOCIATION, INC.
(A Corporation Not-For-Profit)**

FILED
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DIVISION OF CORPORATIONS

00 FEB 17 PM 3:45

In compliance with the requirements of the laws of the State of Florida, the undersigned hereby associate themselves together for the purpose of forming a corporation not-for-profit under Chapter 617, Florida Statutes, and do hereby certify:

**ARTICLE I.
NAME**

The name of the corporation is:

BEACH WALK HOMEOWNERS ASSOCIATION, INC.

(hereinafter called the "Association").

**ARTICLE II
REGISTERED OFFICE**

The street address of the Association is 2300 Corporate Boulevard, Suite 112, Boca Raton, FL 33431

**ARTICLE III
PURPOSES OF THE ASSOCIATION**

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for operation, maintenance and preservation of the Common Area and improvements thereon, within that certain real property (and any additions thereto) described in the Declaration of Covenants, Restrictions, Easements, Charges and Liens for Beach Walk Homeowners Association, Inc. as recorded in the Public Records of Lee County, Florida (the "Declaration"), and to otherwise perform the obligations and responsibilities of the Association under the Declaration and to promote the health, safety and welfare and mutual enjoyment of the members of the Association. Capitalized terms which are not otherwise defined herein shall be given the meaning ascribed to such terms in the Declaration.

**ARTICLE IV
POWERS OF THE ASSOCIATION**

The Association shall have all the powers and duties reasonably necessary to operate and maintain the Association, including, but not limited to, the following:

A. Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration and as the same may be amended from time to time as therein provided;

B. Fix, levy, collect and enforce payment by any lawful means, of all charges or assessments pursuant to the terms of the Declaration or By-Laws of the Association; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

C. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer or otherwise dispose of real or personal property in connection with the affairs of the Association including, without limitation, the Common Area;

D. To operate and maintain the surface water management system in accordance with the requirements of the South Florida Water Management District, and to contract for services to provide for the operation and maintenance of the surface water management system; provided, however, in the event the Association is dissolved, the surface water management system, and the property comprising such system, will be conveyed and be dedicated to a non-profit organization so as to assure continued maintenance of the surface water management system in perpetuity;

E. With the assent of two-thirds (2/3) of the Membership Interests at a duly called meeting of the Association, borrow money and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and only if the prior written consent of Declarant is obtained for so long as Declarant holds any Membership Interest in the Association;

F. Dedicate, sell or transfer all or any part of the Common Area 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 without obtaining consent of two-thirds (2/3) of the Membership Interests; and only if the prior written consent of Declarant is obtained for so long as Declarant holds any Membership Interest in the Association;

G. Participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of the Membership Interests of the Association; and only if the prior written consent of Declarant is obtained for so long as Declarant holds any Membership Interest in the Association;

H. To promulgate or enforce rules, regulations, by-laws, covenants, restrictions or agreements to effectuate all of the purposes for which the Association is organized;

I. To have and to exercise any and all powers, rights and privileges which a non-profit corporation organized under the laws of the State of Florida may now or hereafter have or exercise;

J. To contract for management of the Association and to delegate in such contract all or any part of the delegable powers and duties of the Association, and to contract for services to be provided to the Owners, including cable television service. All Members of the Association shall be bound by such contracts regardless of whether they desire or use the services rendered thereunder.

K. To sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person;

L. All powers and duties of a not-for-profit corporation under Chapter 617, Florida Statutes.

ARTICLE V MEMBERSHIP AND QUORUM

A. Every Owner of a Lot within the Property subject to the Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

B. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, equal to thirty percent (30%) of the total voting interests of the Association shall constitute a quorum for any action.

ARTICLE VI VOTING RIGHTS

A. There shall be one Membership Interest in the Association appurtenant to each Lot. Initially, Declarant shall be entitled to all Membership Interests in the Association. The Membership Interest appurtenant to each Lot shall automatically pass upon recordation in the public records of each instrument effectuating a sale, conveyance or transfer of said Lot.

B. The Association shall have two (2) classes of membership:

Class A. Class A Members shall be all Owners of Lots (except the Declarant) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall have a Membership Interest in the Association. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant. The Declarant shall be entitled to one (1) vote for each Membership Interest held by it in the Association; provided, however, that until three (3) months after ninety percent (90%) of the Lots have been conveyed to Owners other than Declarant, Declarant shall at all times be entitled to no less than the number of votes equal to the maximum number of votes for all other classes plus one, so that the Declarant shall at all referenced times have a majority of votes.

**ARTICLE VII
BOARD OF DIRECTORS**

A. The affairs of the Association shall be managed by a Board of at least three (3) Directors. Initially, the Declarant shall have the right to appoint all of the Directors until such time as Class A Members hold fifty percent (50%) or more of the Membership Interests, at which time the Class A Members shall be entitled to elect one (1) Director and the Declarant shall be entitled to elect two (2) Directors.

B. Within sixty (60) days after the Class A Members are entitled to elect a Director, the Association shall call, and give not less than thirty (30) days' nor more than forty (40) days' notice of, a meeting of the Class A Members for this purpose. Such meeting may be called and a notice given by any Class A Member if the Association fails to do so.

C. The Declarant shall be entitled to appoint two (2) Directors until three (3) months after ninety percent (90%) of the Lots have been conveyed to Owners other than Declarant.

D. The Declarant shall be entitled to appoint one (1) Director as long as Declarant is the holder of at least five percent (5%) or more of the Membership Interests in the Association, after which time all Directors shall be selected by the Class A Members.

E. Any Director appointed by the Declarant shall serve at the pleasure of the Declarant, and may be removed and substituted by Declarant, at its sole option and discretion.

F. At such time as the Class A Members of the Association are permitted to elect Directors, any Director elected by the Class A Members, may be removed from the Board with or without cause, by a two-thirds (2/3) vote of the Class A Members of the Association entitled to vote. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve the unexpired term of his predecessor.

G. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

| <u>NAME</u> | <u>ADDRESS</u> |
|-----------------|---|
| John T. Kinsey | 2300 Corporate Blvd. Suite 112 Boca Raton, FL 33431 |
| Debra A. Graff | 2300 Corporate Blvd. Suite 112 Boca Raton, FL 33431 |
| Susan M. Kinsey | 2300 Corporate Blvd. Suite 112 Boca Raton, FL 33431 |

H. The number of Directors may be increased or decreased from time to time as provided in the By-Laws, but shall never be less than three (3) in number.

I. The Directors shall serve for a term of one (1) year. Any Director may be re-elected for successive terms.

J. The provisions of this Article VII shall control over the provisions of Article VI.

ARTICLE VIII DURATION

The Association shall have perpetual existence. In the event the Association is dissolved, the surface water management system shall be conveyed to an appropriate agency of local government. If it is not accepted, then the surface water management system must be dedicated to a similar non-profit corporation.

ARTICLE IX AMENDMENTS

A. Proposals for amendments to these Articles of Incorporation which do not conflict with the Declaration may be made by a majority vote of the Board of Directors or by fifteen (15%) percent of the Members. Such proposals shall be in writing and shall be delivered to the President of the Association who shall thereupon call a special meeting of the Members not less than ten (10) days nor more than sixty (60) days following his receipt of the proposed amendment. Should the President fail to call such special meeting, the Members may, in lieu thereof, call a special meeting. Such request shall state the purpose or purposes of the proposed amendment(s). Notice of such special meeting shall be given and posted in the manner provided in the By-laws. An affirmative vote of two-thirds (2/3) of all Membership Interests (not just those voting) shall be required for approval of the proposed amendment or amendments.

B. Any Member may waive the requirements of this Article as to the notice of special meetings to vote on proposed amendments to these Articles of Incorporation, either before, at or after a membership meeting at which a vote is taken to amend these Articles, and any amendment passed by two-thirds (2/3) of the Membership Interests shall not be invalid merely because some Members did not receive notice of the special meeting.

ARTICLE X INCORPORATOR

The name and street address of the Incorporator for these Articles of Incorporation is John T. Kinsey, 2300 Corporate Blvd., Suite 112, Boca Raton, FL 33431.

**ARTICLE XI
OFFICERS**

A. The Board of Directors shall elect the President, Secretary, Treasurer, and as many Vice President, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall from time to time determine.

B. The names and addresses of the Officers who shall serve until their successors are designated by the Board of Directors are as follows:

| | |
|------------|-----------------|
| President: | John T. Kinsey |
| Secretary: | Debra A. Graff |
| Treasurer: | Susan M. Kinsey |

**ARTICLE XII
BY-LAWS**

A. The By-laws of this Association shall be adopted by the Board of Directors and attached to the Declaration to be filed among the Public Records of Lee County, Florida. The By-laws may be amended by the Members in the manner provided in said By-laws.

B. No amendment to the By-laws shall be passed without the consent or joinder of the Declarant so long as Declarant holds a Membership Interest in the Association.

C. No amendment to the By-laws shall be passed which would operate to impair or prejudice the rights or liabilities of any Mortgagee holding a lien upon a Lot or Unit.

D. No By-law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-laws shall contain the full text of the By-laws to be amended; new words shall be inserted in the text underlined, and the words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Bylaw. See By-law _____ for present text". Nonmaterial errors or omissions in the By-law process shall not invalidate an otherwise properly promulgated amendment.

**ARTICLE XIII
INDEMNIFICATION OF OFFICERS AND DIRECTORS**

The Association shall and does hereby agree to indemnify, defend and hold harmless every Director and every Officer, their heirs, personal representatives, executors and administrators, against all loss, cost and expenses reasonably incurred in connection with any action, suit or

proceeding to which he may be made a party by reason of his being or having been a Director or Officer of the Association, including reasonable counsel fees, except as to matters wherein he shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other indemnification rights to which such Director or Officer may be entitled, by law or otherwise.

ARTICLE XIV TRACT ASSESSMENT COMMITTEE

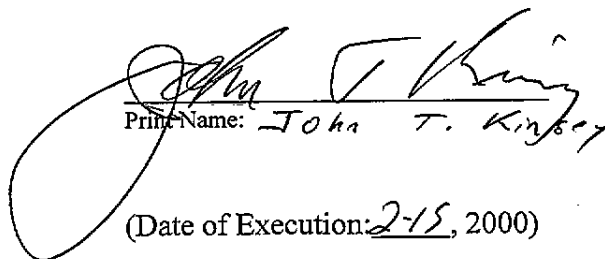
There is hereby established a permanent special committee of the Board of Directors which shall be known as the "Tract Assessment Committee." The Tract Assessment Committee is hereby granted the sole and exclusive power, authority and responsibility to establish and levy Spine Road Assessments and Water Management Assessments against the Property and the Tracts in accordance with the Declaration. The Tract Assessment Committee shall be comprised of five members. One member (the "Lot owners Representative") shall be appointed by the Board of Directors and shall represent all of the Lot Owners. One member shall be appointed by the Tract Owner for each of Tracts "B", "D", "E" and "F" (as described on the Plat of BeachWalk to be recorded in the Public Records of Lee County, Florida.. In the event that a Tract shall hereafter be owned by more than one owner and no Tract Association is formed for such Tract, all of the owners of property within such Tract shall collectively be deemed the Tract Owner for such Tract, and they shall be entitled to select only one member of the Tract Assessment Committee to be selected by a majority in number vote of the owners of real property within such Tract. In the event that any Tract Owner shall fail to appoint a represent to the Tract Assessment Committee in accordance with the provisions hereof, the other members of the Committee shall appoint an interim member to serve until such time that a replacement member shall be appointed by the respective Tract Owner. No amendment to these articles to abolish the Tract Assessment Committee or to in any manner alter, reduce or diminish the power, authority and responsibility granted to such committee by this Article XIV shall be effective without the written consent of the Board of Directors and all of the Tract Owners. In the event that the Tract Assessment Committee shall fail to adopt a budget for the Spine Road Expenses and the Water Management Assessments and the amount of the Spine Road Assessments and Water Management Assessments for the next succeeding calendar year and to have delivered such budget and proposed assessment to the Board of Directors by December 15 of each year for inclusion in the assessments for the next succeeding calendar year, the Board of Directors shall be deemed authorized to adopt such budget and establish the amount of such assessments on behalf of the Tract Assessment Committee. The Tract Assessment Committee shall adopt operating procedures for itself by a majority vote of the initial members of such committee at its first meeting, which meeting shall be called by the President of the Association. Thereafter, such operating procedures may be amended only by the vote of a majority of the members of such committee.

IN WITNESS WHEREOF, for the purpose of forming this Association under the Laws of the State of Florida, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 15th day of February, 2000.

Signed, Sealed and Delivered
in the Presence of:






Print Name: John T. Kinsey
(Date of Execution: 2-15, 2000)

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE
SERVICE OF PROCESS WITHIN FLORIDA, NAMING AGENT UPON WHOM
PROCESS MAY BE SERVED

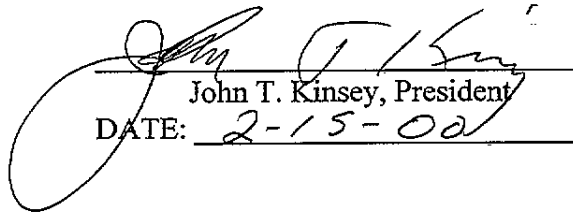
In compliance with section 48.091, Florida Statutes, the following is submitted:

Beach Walk Homeowners Association, Inc., desiring to organize or qualify under the laws of the State of Florida with its principal place of business at Lee County, State of Florida, has named:

John T. Kinsey
2300 Corporate Boulevard, Suite 112
Boca Raton, FL 33431

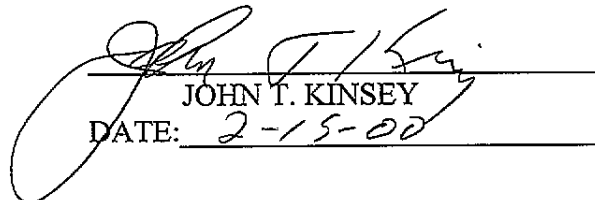
as its agent to accept service of process within Florida.

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DIVISION OF CORPORATIONS
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John T. Kinsey, President
DATE: 2-15-00

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES.



JOHN T. KINSEY
DATE: 2-15-00