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C. GOLDEN
MAY 22 2019

GOEDE / ADAMCZYK / DeBOEST / CROSS
ATTORNEYS AND PROFESSIONAL COUNSEL
INFO@GADCLAW.COM / WWW.GADCLAW.COM

May 20, 2019

Department of State
Division of Corporations
Corporate Filings
Post Office Box 6327
Tallahassee, FL 32314

Re: Revised Amended and Restated Articles of Incorporation for:
Emerson Square Community Association, Inc.

Dear Sir/Madam:

Per your letter dated May 14, 2019, enclosed is the corrected document reflecting the correct statute number, along with a copy for certification.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly,
GOEDE, ADAMCZYK, DEBOEST
& CROSS, PLLC

Jean M. Morningstar
Paralegal to Attorney
Richard D. DeBoest

/jmm

Enclosures as stated

FLORIDA DEPARTMENT OF STATE
Division of Corporations

May 14, 2019

RICHARD D. DEBOEST, ESQUIRE
2030 MCGREGOR BOULEVARD
FORT MYERS, FL 33901

SUBJECT: EMERSON SQUARE COMMUNITY ASSOCIATION, INC.
Ref. Number: N04000008492

We have received your document and check(s) totaling $43.75. However, the enclosed document has not been filed and is being returned to you for the following reason(s):

Restated Articles of Incorporation for a Florida nonprofit corporation are filed pursuant to section 617.1007, Florida Statutes. Enclosed is a copy of chapter 617.

Please correct your document to reflect that it is filed pursuant to the correct statute number.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6050.

Claretha Golden
Regulatory Specialist II

Letter Number: 419A00009740

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AMENDED AND RESTATED ARTICLES OF INCORPORATION OF EMERSON SQUARE COMMUNITY ASSOCIATION, INC.

Pursuant to the provisions of Section 617.1007, Florida Statutes, the undersigned Florida not for profit corporation adopts the following articles of amendment to its articles of incorporation.

FIRST: Amendment(s) adopted:

Amended and Restated Articles of Incorporation.
See attached Exhibit "A" for full text.

SECOND: The date of adoption of the amendments was at meeting held on December 13, 2018 and properly continued and concluded on January 24, 2019.

THIRD: Adoption of Amendment (Check one):

__X__ The amendment(s) was (were) adopted by the members and the number of votes cast for the amendment was sufficient for approval.

____ There are no members or members entitled to vote on the amendment. The amendment(s) was (were) adopted by the Board of Directors.

EMERSON SQUARE COMMUNITY ASSOCIATION, INC.

David Barnes
Signature of Officer

David Barnes
Print Name of Officer

President
Title of Officer

March 7th, 2019
Date

NOTE: SUBSTANTIAL AMENDMENT OF THE ARTICLES. SEE ORIGINAL ARTICLES FOR COMPARISON.

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AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
EMERSON SQUARE COMMUNITY 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 Chapters 617 and 720 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
DEFINITIONS

The following words and phrases when used in these Articles of Incorporation (unless the context clearly reflects another meaning) shall have the following meanings:

1. "Articles" means these Articles of incorporation and any amendments hereto.

2. "Assessments" means the assessments for which all Owners are obligated to the Association and includes "Regular Assessments" and "Special Assessments" (as such terms are defined in the Declaration) and any and all other assessments which are levied by the Association in accordance with the Governing Documents.

3. "Association" means Emerson Square Community Association, Inc., a Florida corporation not for profit. The "Association" is NOT a condominium association and is not intended to be governed by Chapter 718, the Condominium Act, Florida Statutes.

4. "Board" means the Board of Directors of the Association.

5. "Bylaws" means the Bylaws of the Association and any amendments thereto.

6. "Common Area" means the property more particularly described in Article IX of the Declaration.

7. "County" means Lee County, Florida.

8. "Declaration" means the Declaration of Covenants, Conditions and Restrictions for Emerson Square, which is intended to be recorded amongst the Public Records of the County, and any amendments thereto.

9. "Director" means a member of the Board.

10. "Emerson Square" means that planned residential development located in the County, which encompasses the Property (as defined in the Declaration) and is intended to comprise one hundred

EXHIBIT A
tabbies

seventy-six (176) Single Family Homes located in the Astor and Concord neighborhoods and one hundred eight (108) Condominium Units in twenty-seven (27) buildings located in the Harmony Point and Concord Point neighborhoods and the Common Area. Emerson Square will consist of the land set forth in Exhibit "A" of the Declaration.

11. "Governing Documents" means in the aggregate the Declaration, these Articles and the Bylaws and all of the instruments and documents referred to therein, including, but not limited to, any Amendment(s) thereto.

12. "Home" shall mean one of the one hundred seventy-six (176) single family residences (may also be referred to herein as "Single-Family Home"), or one of the one hundred eight (108) attached residential homes (may also be referred to herein as "Condominium Unit"), each of which is designed and intended for use and occupancy as a single-family residence.

13. "Member" means a member of the Association.

14. "Operating Expenses" means the expenses for which Owners are liable to the Association as described in the Declaration and any other Governing Documents and include, but are not limited to, the costs and expenses incurred by the Association in administering, operating, maintaining, financing, or repairing, but not reconstructing, replacing or improving, the Common Area and improvements thereon and all costs and expenses incurred by the Association in carrying out its powers and duties hereunder or under any other Governing Documents.

15. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Home within Emerson Square but excluding therefrom those having such interest as security for the performance of an obligation.

Unless otherwise defined herein, the terms defined in the Declaration are incorporated herein by reference and shall appear in initial capital letters each time such terms appear in these Articles.

ARTICLE II
NAME

The name of this corporation shall be EMERSON SQUARE COMMUNITY ASSOCIATION, INC., a Florida corporation not for profit, whose principal address and mailing address is as listed with the Florida Department of State Division of Corporations.

ARTICLE III
PURPOSES

The purpose for which the Association is organized is to take title to, operate, administer, manage, lease and maintain the Common Area in accordance with the terms of, and purposes set forth in, the Governing Documents and to carry out the covenants and enforce the provisions of the Governing Documents.

ARTICLE IV
POWERS

The Association shall have the following powers and shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not for profit.

B. The Association shall have all of the powers granted to the Association in the Governing Documents. All of the provisions of the Declaration and Bylaws which grant powers to the Association are incorporated into these Articles.

C. The Association shall have all of the powers reasonably necessary to implement the purposes of the Association, including, but not limited to, the following:

1. To perform any act required or contemplated by it under the Governing Documents.

2. To make, establish, amend and enforce reasonable rules and regulations governing the use of the Common Area, the Lots, Condominium Common Elements and Units.

3. To make, levy and collect Assessments for the purpose of obtaining funds from its Members to pay Operating Expenses and other costs defined in the Declaration and costs of collection, and to use and expend the proceeds of Assessments in the exercise of the powers and duties of the Association.

4. To own, maintain, repair, replace, operate and convey the Common Area in accordance with the Governing Documents.

5. To enforce by legal means the obligations of the Members and the provisions of the Governing Documents.

6. To employ personnel, retain independent contractors and professional personnel, and enter into service contracts to provide for the maintenance, operation, administration and management of the Common Area and to enter into any other agreements consistent with the purposes of the Association, including, but not limited to, agreements with respect to professional management of the Common Area and to delegate to such professional manager certain powers and duties of the Association.

7. To enter into the Declaration and any amendments thereto and instruments referred to therein.

8. To provide, to the extent deemed necessary by the Board, any and all services and do any and all things which are incidental to or in furtherance of things listed above or to carry out the Association mandate to keep and maintain Emerson Square in a proper and aesthetically pleasing condition and to provide the Owners with services, amenities, controls and enforcement which will enhance the quality of life at Emerson Square.

9. To operate, maintain, and manage the Surface Water and Storm Water Management System in a manner consistent with the requirements of South Florida Water Management District Permit and applicable rules; to assist in the enforcement of the Declaration's provisions relating to the Surface Water and Storm Water Management System; and to levy and collect adequate assessments against Owners for the cost of maintenance and operation of the Surface Water and Storm Water Management System.

10. To borrow money and to obtain such financing as is necessary to maintain, repair and replace the portions of the Community which are the responsibility of the Association in accordance with the Declaration, and as security for any such loan, to collaterally assign the Association's right to collect and enforce Assessments levied for the purpose of repaying any such loan.

ARTICLE V
MEMBERS AND VOTING

The qualification of Members of the Association, the manner of their admission to membership, the manner of the termination of such membership and the manner of voting by Members shall be as follows:

A. Every Owner shall be a Member and exercise all of the rights and privileges of a Member.

B. Membership in the Association for Owners shall be established by the acquisition of ownership of fee simple title to a Home as evidenced by the recording of an instrument of conveyance amongst the Public Records of the County. Where title to a Home is acquired by conveyance by means of sale, gift, inheritance, devise, judicial decree or otherwise, the person, persons or entity thereby acquiring such Home shall not be a Member unless or until such Owner shall deliver a true copy of a deed or other instrument of acquisition of title to the Association.

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

1. "Class A Members" shall be the Single-Family Home Owners each of whom shall be entitled to one (1) vote for each Single-Family Home owned.

2. "Class B Members" shall be the Condominium Unit Owners each of whom shall be entitled to one (1) vote for each Condominium Unit owned.

D. The designation of different classes of membership are for purposes of establishing the number of votes applicable to certain Homes, and nothing herein shall be deemed to require voting solely by an individual class on any matter which requires the vote of Members, unless otherwise specifically set forth in the Governing Documents.

E. No Member may assign, hypothecate or transfer in any manner his/her membership in the Association except as an appurtenance to his/her Home.

F. Any Member who conveys or loses title to a Home by sale, gift, devise, bequest, judicial decree or otherwise shall, immediately upon such conveyance or loss of title, no longer be a Member with

respect to such Home and shall lose all rights and privileges of a Member resulting from ownership of such Home.

G. There shall be only one (1) vote for each Home as set forth herein. If there is more than one Member with respect to a Home as a result of the fee interest in such Home being held by more than one person, such Members collectively shall be entitled to only one (1) vote. The vote of the Owners of a Home owned by more than one natural person or by a corporation or other legal entity shall be cast by the person named in a certificate signed by all of the Owners of the Home, or, if appropriate, by properly designated officers, partners or principals of the respective legal entity ("Voting Member"), and filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not filed with the Secretary of the Association, the vote of such Home shall not be considered for a quorum or for any other purpose.

Notwithstanding the foregoing provisions, whenever any Home is owned by a husband and wife they may, but shall not be required to, designate a Voting Member. In the event a certificate designating a Voting Member is not filed by the husband and wife, the following provisions shall govern their right to vote:

1. When both are present at a meeting, each shall be regarded as the agent and proxy of the other for purposes of casting the vote for each Home owned by them. In the event they are unable to concur in their decision upon any topic requiring a vote, they shall lose their right to vote on that topic at that meeting but shall count for purposes of establishing a quorum.

2. When only one (1) spouse is present at a meeting, the person present may cast the Home vote without establishing the concurrence of the other spouse, absent any prior written notice to the contrary by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Home shall not be considered, but shall count for purposes of establishing a quorum.

3. When neither spouse is present, the person designated in a "Proxy" (as defined in the Bylaws) signed by either spouse may cast the Home vote, when voting by Proxy is allowed, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different Proxy by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different Proxy by the other spouse, the vote of said Home shall not be considered, but shall count for purposes of establishing a quorum.

H. A quorum shall consist of persons entitled to cast at least thirty percent (30%) of the total number of votes of the Members.

ARTICLE VI
TERM

The term for which this Association is to exist shall be perpetual. In the event of dissolution of the Association (unless same is reinstated), other than incident to a merger or consolidation, all of the assets of the Association shall be conveyed to a similar homeowners association or a public agency having a similar purpose, or any Member may petition the appropriate circuit court of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and its properties in the place and stead of the dissolved Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties.

In the event of the Association's termination, dissolution, or final liquidation, the responsibility for the operation and maintenance of the Surface Water and Storm Water Management System must be transferred to and accepted by an entity which complies with Section 40C-42.027, F.A.C. and is approved by the South Florida Water Management District ("SFWMD") prior to such termination, dissolution, or liquidation.

ARTICLE VII
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.. Officers must be Members, 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 VIII
BOARD OF DIRECTORS

A. The number of Directors on the Board of Directors of the Association shall be five (5). Directors must be Members or spouses or officers or directors of Members. There shall be only one (1) vote for each Director.

B. The Board shall continue to be so designated and elected, at each subsequent "Annual Members' Meeting" (as defined in the Bylaws).

C. A Director may be removed from office upon the affirmative vote of most of the voting interests of Members for any reason deemed to be in the best interests of the Members. A meeting of the Members to so remove a Director shall be held upon the written request of ten percent (10%) of the Members.

ARTICLE IX
INDEMNIFICATION

Each and every Director and officer of the Association shall be indemnified by the Association against all costs, expenses and liabilities, including attorney and paralegal fees at all trial and appellate levels and post judgment proceedings, reasonably incurred by or imposed upon him/her in connection with any negotiation, proceeding, arbitration, litigation or settlement in which he/she becomes involved by reason of his/her being or having been a Director or officer of the Association, and the foregoing provision for indemnification shall apply whether or not such person is a Director or officer at the time such cost, expense or liability is incurred. Notwithstanding the above, in the event of any such settlement, the indemnification provisions provided in this Article XI shall not be automatic and shall apply only when the Board approves such settlement and reimbursement for the costs and expenses of such settlement as being in the best interest of the Association, and in the event a Director or officer admits that

he/she is or is adjudged guilty of willful misfeasance or malfeasance in the performance of his/her duties, the indemnification provisions of this Article XI shall not apply. The foregoing right of indemnification provided in this Article XI shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or officer of the Association may be entitled under statute or common law.

ARTICLE X
BYLAWS

The Bylaws may be altered, amended or rescinded in the manner provided for in the Bylaws. In the event of any conflict between the provisions of these Articles and the provisions of the Bylaws, the provisions of these Articles shall control.

ARTICLE XI
AMENDMENTS

A. These Articles may be amended in the following manner:

1. (a) The Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the Members, which may be at either the Annual Members' Meeting or a special meeting. Any number of proposed amendments may be submitted to the Members and voted upon by them at one meeting.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each Member within the time and in the manner provided in the Bylaws for the giving of notice of meetings.

(c) At such meeting, a vote of the Members shall be taken on the proposed amendment(s). The proposed amendment(s) shall be adopted upon receiving the affirmative vote of a majority of the total voting interests present at such meeting.

2. An amendment may be adopted by a written statement (in lieu of a meeting) signed by all Members and all members of the Board setting forth their intention that an amendment to the Articles be adopted.

B. These Articles may not be amended without the written consent of a majority of the members of the Board.

C. Any instrument amending these Articles shall identify the particular article or articles being amended and shall provide a reasonable method to identify the amendment being made. A certified copy of each such amendment shall be attached to any certified copy of these Articles, and a copy of each amendment certified by the Secretary of State shall be recorded amongst the Public Records of the County.