

09/11/2013 16:12 FAX

Fax Copy 100th

0001/0009

Page 1 of 1

Division of Corporations

Florida Department of State
Division of Corporations
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.

((H13000202495 3)))



H130002024953ABC-

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) 617-6380

From: Account Name : SHUTTS & BOWEN LLP (ORLANDO)
Account Number : I20030000004
Phone : (407) 835-6959
Fax Number : (407) 843-4076

FILED
13 SEP 12 AM 10:03
FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

****Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.****

Email Address: taugustyni@shutts.com

**COR AMND/RESTATE/CORRECT OR O/D RESIGN
EMERSON PLAZA CLUB A ASSOCIATION, INC.**

| | |
|-----------------------|---------|
| Certificate of Status | 0 |
| Certified Copy | 1 |
| Page Count | 09 |
| Estimated Charge | \$43.75 |

Electronic Filing Menu

Corporate Filing Menu

Help

(((H13000202495 3)))

**AMENDED & RESTATED
ARTICLES OF INCORPORATION
OF
EMERSON PLAZA CLUB A ASSOCIATION, INC.
(A Florida Corporation Not For Profit)**

FILED
13 SEP 12 AM 10:00
CLERK OF THE CIRCUIT COURT
IN AND FOR THE COUNTY OF SEMINOLE
FLORIDA

The undersigned, on behalf of EMERSON PLAZA DEVELOPMENT, INC., a Florida corporation, as the "Developer" (as such term is defined in the Declaration of Covenants, Conditions and Restrictions For Emerson Plaza Club A, recorded in Official Records Book 6411, Page 1430 *et seq.*, of the Public Records of Seminole County), and in accordance with its Articles of Incorporation and Bylaws does hereby certify:

1. The Association was originally incorporated on August 1, 2006, under Document Number N06000008129, pursuant to Chapter 617 of the laws of the State of Florida.
2. The original Articles of Incorporation of the Association ("Original Articles") are hereby duly amended and restated in their entirety in accordance with the provisions of Section 617, Florida Statutes, and Article 12.2 of the Original Articles.
3. These Amended and Restated Articles of Incorporation were duly adopted by the Developer, in accordance with the provisions of Article 12.2 of the Original Articles, and no Members are entitled to vote thereon.
5. These Amended and Restated Articles of Incorporation have been duly executed by the Developer on the date hereinafter set forth on the execution page.
6. As so adopted, these Amended and Restated Articles of Incorporation replace the Original Articles in their entirety and are substituted therefor.

**ARTICLE I
DEFINITIONS**

Capitalized terms used and not otherwise defined in these Articles shall have the meanings ascribed to such terms in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Emerson Plaza Club A (the "Declaration") recorded in the Public Records of Seminole County, Florida.

Whenever the context so requires, the use of the plural shall include the singular and *vice versa*. Any words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(((H13000202495 3)))

(((H13000202495 3)))

**ARTICLE II
NAME**

The name of this association shall be EMERSON PLAZA CLUB A ASSOCIATION, INC., a Florida not-for-profit corporation. For convenience, the corporation shall be herein referred to as the Association, whose present address is c/o 401 Centerpointe Drive, Suite 1565, Altamonte Springs, Florida 32701.

**ARTICLE III
PURPOSE**

The purpose for which the Association is organized is to take title to, operate, administer and maintain the Club A Property in accordance with the terms, provisions and conditions contained in the Club Documents and to carry out the covenants and enforce the provisions relative to the Association as set forth in the Club Documents and to operate, lease, trade, sell and otherwise deal with the personal and real property of the Association.

**ARTICLE IV
POWERS**

The powers of the Association shall include and 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, provided such powers are not in conflict with the terms of the Declaration or Bylaws.

B. The Association shall have all of the powers granted to the Association the Declaration. All of the provisions of the Declaration and Bylaws are incorporated into these Articles for the purpose of establishing the Association's powers necessary for it to act as contemplated by the Declaration.

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

1. To perform any act required or contemplated by it under the Club Documents.
2. To make, establish, amend, abolish (in whole or in part) and enforce reasonable rules and regulations governing the use of the Club A Property.
3. To make, levy and collect Club Assessments for the purpose of obtaining funds from the Owners to pay Club Assessments and other costs described in the Declaration and costs of collection, and to use and expend the proceeds of such Club Assessments in the exercise of its powers and duties of the Association.
4. To own, maintain, repair, replace, operate and convey the Club A Property in accordance with the Club Documents.

(((H13000202495 3)))

5. To enforce by legal means the obligations of the membership of the Association and the provisions of the Club Documents.

6. To employ personnel, retain independent contractors and professional personnel and enter into service and management contracts to provide for the maintenance, operation, management and administration of the Club A Property and to enter into any other agreements consistent with the purposes of the Association.

7. To enter into the Club Documents 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 the Club A Property in a proper and aesthetically pleasing condition.

9. To borrow money and to obtain such financing as is necessary to maintain, repair and replace the Club A Property in accordance with the Declaration and, as security for any such loan, to collaterally assign the Association's right to collect and enforce Club Assessments levied for such purpose.

10. To sue and be sued.

11. Any and all powers set forth in Section 617.0302, Florida Statutes.

D. Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of three-fourths (3/4) of the voting interests of the Association (at a duly called meeting of the Owners at which a quorum is present) prior to the engagement of legal counsel by the Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (a) the collection of Club Assessments;
- (b) the collection of other charges which Owners are obligated to pay pursuant to the Declaration;
- (c) the enforcement of any applicable use and occupancy restriction contained in the Declaration;
- (d) dealing with an emergency when waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Club A Property or to Owner(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths (3/4) of the voting interests); or
- (e) filing a compulsory counterclaim.

(((H13000202495 3)))

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. The membership of the Association shall be comprised of all Owners of Units (and, in the case of the Multi-Family Parcel, the Owner of the Multi-Family Parcel) within Emerson Plaza. Owners shall be entitled to one (1) vote for each Unit owned. For example, the Owner of a Condominium Unit shall be entitled to one (1) vote per Condominium Unit owned, with the total number of votes applicable to Emerson Plaza One Condominium being fifty-four (54). The Owner of the Multi-Family Parcel shall be entitled to sixty-four (64) votes, such number being equal to the total number of Multi-Family Units located within the Multi-Family Parcel. In the event the Multi-Family Parcel is subdivided in the future into two or more parcels, the number of votes applicable to the subdivided Multi-Family Parcel shall be equal to the number of dwelling units contained in such subdivided parcel(s) and divided accordingly amongst the parcels. The total number of votes in the Association is initially one hundred eighteen (118), but subject to change in accordance with the Declaration.

B. A quorum of Members shall be attained by the presence either in person or by proxy, of persons entitled to cast twenty percent (20%) vote of the Members.

ARTICLE VI TERM

The term for which this Association is to exist shall be perpetual. In the event of a termination or 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 owners' association or a public agency having a similar purpose, or any Member may petition the applicable Circuit Court of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved corporation and its properties in the place and stead of the dissolved corporation and to make such provisions as may be necessary for the continued management of the affairs of the dissolved corporation and its properties.

ARTICLE VII INCORPORATOR

The name and address of the Incorporator of these Articles are as follows: John Pasqualetti, c/o 401 Centerpointe Drive, Suite 1565, Altamonte Springs, Florida 32701.

ARTICLE VIII OFFICERS

A. The affairs of the Association shall be managed by the President, assisted by one (1)

(((H13000202495 3)))

(((H13000202495 3)))

or more Vice-President(s), the Secretary and the Treasurer, and, if any, by the Assistant Secretary(ies) and Assistant Treasurer(s), subject to the directions of the Board.

B. 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 Directors, but no other officer need be a Director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, the offices of President and a Vice-President shall not be held by the same person, nor shall the offices 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 | Nick Gluckman |
| Vice-President/Treasurer | Kathryn Biddle-Smith |
| Secretary | Stewart C. Lawrence |

ARTICLE X BOARD OF DIRECTORS

A. The affairs of the Association shall be managed by a Board of not less than three (3) nor more than nine (9) members. The initial number of Directors shall be three (3). Board members shall be appointed and/or elected as stated in the Bylaws. The election of Directors shall be held at the annual meeting. Each Director shall have only one (1) vote.

B. The names and street addresses of the persons who are to serve on the Board are as follows:

| <u>NAME</u> | <u>ADDRESS</u> |
|----------------------|---|
| Nick Gluckman | 370 Centerpointe Circle, Suite 1136 Altamonte Springs, Florida 32701 |
| Kathryn Biddle-Smith | 370 Centerpointe Circle, Suite 1136 Altamonte Springs, Florida 32701 |
| Stewart C. Lawrence | 375 Emerson Plaza, Apartment #1115 Altamonte Springs, Florida 32701 |

(((H13000202495 3)))

C. The Board so selected pursuant to this Article X shall serve a term of one (1) year and until the annual meeting of Directors following the expiration of the one-year term whereupon a new Board shall be appointed in the manner provided herein and as set forth in the Bylaws. Vacancies on the Board shall be filled in accordance with the Bylaws.

ARTICLE XI INDEMNIFICATION AND LIMITED LIABILITY

A. 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 postjudgment proceedings, reasonably incurred by or imposed upon by him or her in connection with any negotiation, proceeding, arbitration, litigation or settlement in which he or she may be a party, or in which he or she may become involved, by reason of his or 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, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a 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. 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 by common or statutory law.

B. The Association, the Board of Directors, Developer and any member, agent, or employee of any of the same, shall not be liable to any person for any action or for any failure to act, except to the extent such action or failure to act is found by a court of competent jurisdiction in a non-appealable judgment to have been the result of willful misconduct or gross misconduct.

ARTICLE XII BYLAWS

The Bylaws of the Association shall be adopted by the Board and thereafter 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 XIII AMENDMENTS

A. These Articles may be amended only as follows:

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 Members, which may either be 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.

(((H13000202495 3)))

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected 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 of Members.

(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: (i) the affirmative vote of the Members entitled to cast a majority of the voting interests of the Members of the Association; and (ii) the affirmative vote of a majority of the members of the Board.

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

B. No amendment may be made to the Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration or any amendments or supplements thereto.

C. A copy of each amendment shall be filed with and certified by the Secretary of State of the State of Florida. After the Declaration is recorded, a certified copy of each amendment or the Articles as restated to include such amendment shall be recorded amongst the Public Records of the County.

D. Notwithstanding the foregoing provisions of this Article XIII, there shall be no amendment to these Articles which shall abridge, amend or alter the rights of Developer, without the prior written consent thereto by Developer; or any institutional lender without the prior written consent of such institutional lender.

ARTICLE XIV REGISTERED OFFICE AND REGISTERED AGENT

The street address of the Association is c/o 401 Centerpointe Drive, Suite 1565, Altamonte Springs, Florida 32701, and the registered agent of the Association is Ellen Lumpkin, 461 A1A Beach Boulevard, St. Augustine, Florida 32080.

The undersigned, being the Developer of Emerson Plaza Club A, does hereby affirm that the foregoing Amended and Restated Articles of Incorporation were duly adopted on the 9th day of September, 2013.

EMERSON PLAZA DEVELOPMENT, INC.,
a Florida corporation


By: 

JONATHAN CLABER, President

(((H13000202495 3)))

((H13000202495 3)))

The undersigned hereby accepts the designation of Registered Agent as set forth in Article XIV of these Amended and Restated Articles of Incorporation, and acknowledges that he/she is familiar with and accepts the obligations imposed upon registered agents under the Florida Not For Profit Corporation Act.

By: 
Name: Ellen Lumpkin, Registered Agent
Dated: September 5, 2013

((H13000202495 3)))