

To:  
Subject: 001500.95433  
Division of Corporations

From: Ricky Soto

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**001500.95433**

**FLORIDA PROFIT/NON PROFIT CORPORATION**

**DELLAGIO COMMERCIAL PROPERTY OWNERS ASSOCIATION, INC**

Certificate of Status	0
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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION**

**DELLAGIO COMMERCIAL PROPERTY OWNERS ASSOCIATION, INC.**

In compliance with the requirements of Florida Statutes, Chapter 617, the undersigned incorporator has executed, adopted and caused to be delivered for filing these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

**ARTICLE I**  
**NAME OF CORPORATION**

The name of the corporation is **Dellagio Commercial Property Owners Association, Inc.** (hereinafter called the "Association").

**ARTICLE II**  
**PRINCIPAL OFFICE OF THE ASSOCIATION**

The principal place of business and the mailing address of the Association is located at 7940 Via Dellagio Way, Suite 200, Orlando, FL 32819.

**ARTICLE III**  
**REGISTERED OFFICE AND REGISTERED AGENT**

The street address of the Registered Office of the Association is 7940 Via Dellagio Way, Suite 200, Orlando, FL 32819 and the name of the Initial Registered Agent to accept service of process within the State of Florida at that address is **Charles Whittall**.

**ARTICLE IV**  
**DEFINITIONS**

Unless otherwise provided herein to the contrary, all terms used in these Articles shall have the same definitions and meanings as those set forth in that certain Declaration of Covenants, Restrictions and Easements for Dellagio Shopping Center recorded or to be recorded in the Public Records of Orange County, Florida, as it may from time to time be amended (hereinafter called the "Declaration").

**ARTICLE V**  
**PURPOSE AND POWERS OF THE ASSOCIATION**

The Association does not contemplate pecuniary gain or profit to the Members thereof. The Association shall not pay dividends and no part of any income of the Association shall be distributed to its Members, directors or officers. The Association shall have all the powers of a non-profit corporation organized under the laws of the State of Florida, subject only to such limitations upon the exercise of such powers as are expressly set forth in these Articles, the

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Bylaws, or the Declaration. The Association shall have the power and duty to do any and all lawful things which may be authorized, assigned, required or permitted to be done by the Declaration, these Articles or the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the maintenance, operation and improvement of the Property and the Common Property. Except to the extent maintenance of any portion of the Surface Water Management System has been assumed by any governmental authority, and as may be otherwise provided in the Declaration, the Association shall operate, maintain and manage the Surface Water Management System facilities in a manner consistent with the permit therefor issued by the District and in accordance with applicable District rules. To the extent provided in the Declaration, the Association shall levy and collect adequate assessments against Members of the Association for the costs of operation, maintenance and management of the Surface Water Management System facilities.

#### **ARTICLE VI** **MEMBERSHIP**

**Members.** Every person or entity who is a record Owner of a fee interest in any Lot in the Property shall be a Member of the Association. Declarant shall also be a Member for so long as Declarant owns any portion of the Property. Notwithstanding anything else to the contrary set forth in this Article, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association. The Association membership of each Owner (other than Declarant) shall be appurtenant to and may not be separated from the Lot giving rise to such membership, and shall not be transferred except upon the transfer of title to said Lot and then only to the transferee of title thereto. Any prohibited separate transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

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

**Class "A".** All Class "A" Members shall be Members, with the exception of Declarant for so long as Declarant retains Class "B" voting rights. Each Class "A" Member shall have the votes as set forth in the Declaration.

**Class "B".** The sole Class "B" Member shall be Declarant. The Class B Member shall be allocated a number of votes equal to twice the total number of Class A votes at any time.

**Multiple Owners.** Each vote in the Association must be cast as a single vote, and fractional votes shall not be allowed. If joint or multiple Owners are unable to agree among themselves as to how their vote is to be cast, or if more than one (1) Class "A" vote is cast for any Lot, none of the votes for that Lot shall be counted. If any Owner casts a vote on behalf of a Lot, it shall be conclusively presumed that Owner was acting with the authority and consent of all other Owners of that Lot. If more than one Class "A" vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

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**ARTICLE VII**  
**BOARD OF DIRECTORS**

The affairs of this Association shall be managed and administered by a Board of Directors consisting of three (3), five (5), or seven (7) members. Initially, the Board shall consist of three (3) members, with the number in subsequent years to be determined by the members of the Board; provided that there shall always be an odd number of directorships created. The number of directors may be changed by amendment to the Bylaws of the Association. Following Turnover the Member(s) shall appoint all three (3) Directors. The names and addresses of persons who are to act in the capacity of director until appointment or election of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
<b>Charles Whittall</b>	7940 Via Dellagio Way Suite 200 Orlando, FL 32819
<b>Kathy Keller</b>	5401 S. Kirkman Road Suite 650 Orlando FL 32819
<b>Brian Holder</b>	7940 Via Dellagio Way Suite 200 Orlando, FL 32819

**ARTICLE VIII**  
**OFFICERS**

The day-to-day affairs of the Association shall be administered, subject to the direction and authority of the Board of Directors, by the officers of the Association, which may include a President, Vice President, Secretary and Treasurer and such other officers as permitted by the Bylaws. The officers shall be appointed by the Board of Directors and they shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

	<u>NAME</u>	<u>ADDRESS</u>
President:	<b>Charles Whittall</b>	7940 Via Dellagio Way Suite 200 Orlando, FL 32819
Vice President:	<b>Kathy Keller</b>	5401 S. Kirkman Road Suite 650 Orlando FL 32819
Secretary:	<b>Charles Whittall</b>	7940 Via Dellagio Way Suite 200

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Orlando, FL 32819

Treasurer:

**Brian Holder**

7940 Via Dellagio Way  
Suite 200  
Orlando, FL 32819

#### **ARTICLE IX** **DURATION**

The Association shall commence to exist upon the filing of these Articles with the Florida Department of State, and the Association shall thereafter have perpetual existence.

#### **ARTICLE X** **AMENDMENTS**

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

**Notice.** Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.

**Adoption.** Amendments shall be proposed and adopted in the manner provided in Chapter 617, Florida Statutes. Subject to the terms of Articles XIV, any amendment to these Articles of Incorporation shall require the assent of two thirds (2/3) of the votes of the entire membership without regard to class.

**Recording.** A copy of each amendment to these Articles shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State may be, but shall not be required to be, recorded in the public records of Orange County, Florida with an identification on the first page thereof of the book and page of said public records where the Declaration was recorded.

**Limitations.** No amendment shall be made that is in conflict with the Declaration.

#### **ARTICLE XI** **BY-LAWS**

The By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended, or rescinded in the manner provided in the Bylaws.

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**ARTICLE XII**  
**INDEMNIFICATION OF OFFICERS AND DIRECTORS**

The Association shall defend, indemnify and hold harmless any officer or Member of the Board of Directors, committee member, employee or agent of the Association who is made a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceedings, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a director, officer, committee member, employee or agent of the Association:

From and against expenses (including reasonable attorneys' fees for pretrial, trial, appellate, administrative, arbitration or mediation proceedings), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with an action, suit, or proceeding (other than one by or in the right of the Association), if he or she acted in good faith, and, with respect to any criminal action or proceedings, he or she had no reasonable cause to believe his or her conduct was unlawful; and

From and against expenses (including reasonable attorneys' fees for pretrial, trial, appellate, administrative, arbitration or mediation proceedings) actually and reasonably incurred by him or her in connection with the defense or settlement of an action or suit by or in the right of the Association, if he or she acted in good faith.

The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that such person had reasonable cause to believe that his or her conduct was unlawful.

Notwithstanding any other provision hereof to the contrary, no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or misconduct in the performance of his or her duty to the Association.

Any indemnification under this Article XII (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director or officer, committee member, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth above. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit, or proceeding, or (b) if such quorum is not obtainable, or even if obtainable and a quorum of disinterested Directors so directs, by a majority vote of Members of the Association.

Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association from time to time as incurred rather than only after the final disposition of such action, suit, or proceeding. Payment of such expenses shall be authorized by the Board of Directors in each specific case only after receipt by the Association of an undertaking by or on behalf of the director or officer to repay such amounts if it shall later develop that he or she is not entitled to be indemnified by the Association.

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The indemnification provided by this Article shall not be deemed exclusive of any other rights to which the Association's directors, officers, committee members, employees or agents may be entitled under the Association's Bylaws, agreement, vote of Members or disinterested directors, or otherwise, both as to actions in their official capabilities and as to action in another capacity while holding such offices or positions, and shall continue as to a person who has ceased to be a director, officer, committee member, agent or employee and shall inure to the benefit of the heirs, executors and administrators of such a person.

Notwithstanding the foregoing provisions, indemnification provided under this Article shall not include indemnification for any action of a director, officer, committee member, agent or employee of the Association for which indemnification is deemed to be against public policy. In the event that indemnification provided under this Article is deemed to be against public policy, such an event shall not invalidate or affect any other right or indemnification herein provided.

The Association shall have the power, but shall not be obligated, to purchase and maintain indemnification insurance to provide coverage for any liability asserted against any director, officer, committee member, agent or employee of the Association in any of his or her capacities as described in this Article, whether or not the Association would have the power to indemnify him or her under this Article.

Any person requesting indemnification shall first look to any insurance maintained by the Association for indemnification against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement (as described above). The Association shall be obligated to indemnify such person (if entitled to indemnification by the Association) only to the extent such insurance does not indemnify such person. In the event that any expenses, judgments, fines, or amounts paid in settlement are paid pursuant to insurance maintained by the Association, the Association shall have no obligation to reimburse the insurance company.

#### **ARTICLE XIII** **INCONSISTENCY**

In the event of any inconsistency between the terms and provisions contained in the Declaration and those contained in these Articles of Incorporation, the terms and provisions of the Declaration shall prevail.

#### **ARTICLE XIV** **REQUIRED APPROVALS**

In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water Management System must be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the Southwest Florida Water Management District prior to such termination, dissolution or liquidation.

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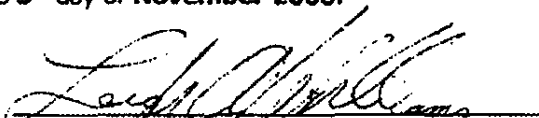
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**ARTICLE XV**  
**INCORPORATOR**

The name and street address of the sole incorporator to these Articles of Incorporation is as follows:

**Leigh A. Williams, Esq.**  
**37 N. Orange Avenue**  
**Suite 200**  
**Orlando, FL 32801**

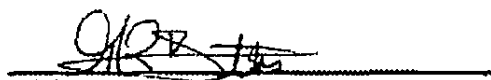
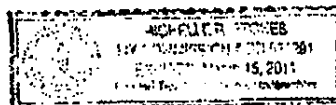
**IN WITNESS WHEREOF**, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the sole incorporator of this Association, has executed these Articles of Incorporation this **5<sup>th</sup>** day of **November 2008**.



Name: **Leigh A. Williams**  
Incorporator

**STATE OF FLORIDA**  
**COUNTY OF ORANGE**

The foregoing Articles of Incorporation were acknowledged before me this **5<sup>th</sup>** day of **November 2008** by **Leigh A. Williams**, who is personally known to me.

  
**Michelle R. Stokes**  
NOTARY PUBLIC



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**CERTIFICATE DESIGNATING REGISTERED AGENT FOR  
SERVICE OF PROCESS**

Pursuant to Chapters 48 and 617, Florida Statutes, the following is submitted in compliance with said Acts.

**Dellagio Property Owners Association, Inc.**, desiring to organize as a Corporation under the laws of the State of Florida, with its registered office at 7940 Via Dellagio Way, Suite 200, Orlando, FL 32819, has named **Charles Whittall** located at the above-registered office, as its Registered Agent to accept service of process within this State.

**ACKNOWLEDGMENT:**

Having been named to accept service of process for the above-stated corporation at the place designated in this Certificate, I hereby accept to act in this capacity and agree to comply with the provisions of said Acts relative to keeping open said office.

Registered Agent: 

Name: **Charles Whittall**

Dated: **12 November 2008**

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