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2010 DEC 27 AM 10:37  
TALLAHASSEE, FLORIDA  
SEC. OF STATE

J. Shivers DEC. 28 2010

## COVER LETTER

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

SUBJECT: The Homeowners Association of Holly Creek, Phase II, Inc.  
(PROPOSED CORPORATE NAME - MUST INCLUDE SUFFIX)

Enclosed is an original and one (1) copy of the Articles of Incorporation and a check for :

☐ \$70.00  
Filing Fee

☐ \$78.75  
Filing Fee &  
Certificate of  
Status

☐ \$78.75  
Filing Fee  
& Certified Copy

☒ \$87.50  
Filing Fee,  
Certified Copy  
& Certificate

ADDITIONAL COPY REQUIRED

FROM: Richard A. Wentzell  
Name (Printed or typed)

P.O. Box 761  
Address

Apopka, FL 32704  
City, State & Zip

(407) 886-2451  
Daytime Telephone number

crenshaws@homesip.org  
E-mail address: (to be used for future annual report notification)

NOTE: Please provide the original and one copy of the articles.

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2010 DEC 27 AM 10:37  
TALLAHASSEE, FL 32314

ARTICLES OF INCORPORATION  
OF  
THE HOMEOWNERS ASSOCIATION OF HOLLY CREEK, PHASE II, INC.  
(A Florida Non-Profit Corporation)

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FILED  
2010 DEC 27 AM 10:37  
CLERK OF DISTRICT COURT  
JULIA M. STONE

In order to form a corporation not-for-profit under and in accordance with Chapter 617 of the Florida Statutes, we, the undersigned, hereby associate ourselves into a corporation not-for-profit for the purposes and with the powers hereinafter set forth and to that end we do, by these Articles of Incorporation (the "Articles"), certify as follows:

ARTICLE I  
NAME OF CORPORATION

The name of the corporation is The Homeowners Association of Holly Creek Phase II, Inc., a Florida Non-Profit corporation (hereinafter called the "Association") whose principal place of business and mailing address is 235 East 5<sup>th</sup> Street, Apopka, Florida 32703.

ARTICLE II  
PURPOSE OF THE ASSOCIATION

This Association is being organized in connection with the single family development known as Holly Creek, Phase II (the "Development") as evidenced by certain declarations of easement, covenants, conditions and restrictions therefor as amended from time to time, (the "Declaration") which is or will be recorded in the Public Records of Orange County, Florida. All terms and definitions as set forth in the Declaration are hereby incorporated herein and made a part hereof. The purposes for which the Association is organized is to maintain, operate, manage and preserve the Development; to provide for the architectural control of the residential lots in the Development; and to promote the health, safety and welfare of the residents of the Development. Except to the extent maintenance of any portion of the Surface Water Management System has been assumed by any governmental authority, the Association shall operate, maintain and manage the Water Management System Facilities in a manner consistent with the permit therefor issued by the District and in accordance with applicable District rules. Unless otherwise specified, the Association shall have and exercise all powers, rights and privileges set forth herein, in the Declaration, and in Chapter 617, Florida Statutes, as amended.

ARTICLE III  
POWERS

In addition to such other powers as may be set forth in the Declaration, these Articles, the bylaws promulgated by the Association ("Bylaws"), or the Florida Statutes, the Association shall have the following powers which 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 which are not in conflict with the terms of the Declaration, these Articles, the Bylaws or the Florida Statutes.

B. 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. Assessments. To fix and levy assessments on the Owners (as defined in the Declaration) of Lots (as defined in the Declaration) and to collect and enforce payments of such assessments.

2. Right of entry and enforcement. To enter upon any portion of the development, including without implies limitation individual Lots owned by Owners for the purpose of enforcing by peaceful means any provision of the Declaration, or for the purpose of maintaining or repairing any such area if, for any reason whatsoever, maintenance is required thereto.

3. Easements and Rights-of-Way. To grant and convey to the Developer (as defined in the Declaration) or any third party easements and rights-of-way in, on, over or under any of the Common Areas (as defined in the Declaration) for the purpose of constructing, erecting, operating or maintaining the following therein, thereon or thereunder:

a. Overhead or underground lines, cable wires, conduits or other devices for the transmission of electricity for lighting, heating, power, telephone or other purposes; and

b. Public sewers, storm water drains, pipes, water systems, sprinkler systems, water, heating and gas lines or pipes, cable television lines and security system lines; and, similar public or quasi-public improvements or facilities.

4. Employment of Agents. To employ the services of any person or corporation as property manager (the "Manager"), or other employees, to, as may be directed by the Board (as defined herein) manage, conduct and perform the business, obligations and duties of the Association, and to enter into contracts for such purpose. Such agent shall have the right to ingress and egress over such portions of the Common Areas or the Development as is necessary for the performance of such business, duties and obligations.

5. Employment of Professional Advisors. To employ professional counsel and consultants such as, but not limited to, landscape architects, recreation experts, planners, lawyers and accountants.

6. Create Classes of Service and Make Appropriate Charges. To create, in its sole discretion, various classes of service and to make appropriate charges therefor for the users thereof, including, but not limited to, reasonable admission and other fees, for the use of any recreational facilities situated in the Common Areas and to avail itself of any rights granted by law without being required to render such services to those of its Members (as defined herein) who do not assent to the said charges and to such other rules and regulations as the Board deems proper. In addition, the Board shall have the right to discontinue any service on non-payment or to eliminate such services for which there is no demand or adequate funds to maintain the same out of charges.

7. Miscellaneous. To sue and be sued; pay taxes; make and enter into contracts; and insure, enter into leases or concessions, and to pass good and marketable title to the Common Areas, dedicate or transfer all or any part of the Common Areas to a public agency, authority or utility for such purposes and subject to such conditions as may be reasonable; make and execute any and all proper affidavits for various purposes; compromise any action without leave of court; and insure its own liability for claims against it and against its officers, directors, employees and contractors.

8. Inspection; Personal Liability. No member of the Board or any officer of the Association, nor any officer or director of the Developer or the manager, shall be personally liable to any owner or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, provided that such person, firm or entity has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

9. Books and Records. To keep separate books and records in accordance with these Articles, Bylaws and applicable law.

#### ARTICLE IV MEMBERS

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

A. Until such time as the recording of the Declaration, the Members of this Association shall be comprised solely of the subscribers (the "Subscriber Members") to these Articles; and in the event of the resignation or termination of any Subscriber Member, the remaining Subscriber members may nominate and designate a successor Subscriber Member. Each of the Subscriber Members shall be entitled to cast one (1) vote on all matters requiring a vote of the members.

B. Upon the recording of the Declaration, the Subscriber Members' rights and interests shall be automatically terminated and the Owners, which in the first instance means the Developer as the owner of Lot(s), shall be entitled to exercise all of the rights and privileges of the Members, as set forth in the Declaration and in these Articles.

C. Membership in the Association shall be established by the acquisition of ownership by a person(s) or entity(ies) of a Lot in the Development as evidenced by the recording of an instrument of conveyance in the Public Records of Orange County, Florida, whereupon the membership in the Association of the prior owner thereof, if any, shall terminate. New members shall deliver a true copy of the recorded deed or other instrument of acquisition of title to the Association. No person or entity holding an interest or title to a Lot as security for performance of an obligation shall acquire the membership rights appurtenant to such Lot by virtue of such interest or title.

D. No Member may assign, hypothecate or transfer in any manner his/her membership in the Association or his/her share in the funds and assets of the Association except as an appurtenance to his/her Lot. In no event may any membership be severed from the Lot to which it is appurtenant.

E. Except as otherwise provided in the Declaration, each member shall be entitled to one (1) vote for each Lot owned with respect to matters on which a vote by the Owners is required to be taken pursuant to the Declaration, these Articles or the Bylaws.

#### ARTICLE V VOTING RIGHTS

The Members of the Association shall have voting rights provided to them in the Declaration.

#### ARTICLE VI TERM

The term for which this Association is to exist shall be perpetual.

#### ARTICLE VII SUBSCRIBERS

The name and address of the Subscriber to these Articles is as follows:

Name

Address

H. Lewis Kellom

235 East 5<sup>th</sup> Street  
Apopka, FL 32704

#### ARTICLE VIII OFFICERS

A. The day-to-day affairs of this 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.

B. The Board shall elect the President, Vice President, Secretary and Treasurer. Such officers shall be elected annually by the Board at the first meeting of the Board; provided, however, such officers may be removed by such Board and other persons may be elected by the Board as such Officers in the manner provided in the Bylaws. The President shall be a Director of the Association, 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 Vice President shall not be held by the same person, nor shall the same person hold the office of President who holds the office of Secretary.

C. The names of the officers who are to serve until the first election of officers by the Board are as follows:

President	H. Lewis Kellom
Vice President	Richard A. Wentzell
Secretary/Treasurer	Toby Best

ARTICLE IX  
INITIAL REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of this corporation is 235 East 5<sup>th</sup> Street, Apopka, Florida 32703 and the name of the initial registered agent of this corporation at that address is H. Lewis Kellom.

ARTICLE X  
BOARD OF DIRECTORS

A. The form of Administration of the Association shall be by a Board of not less than three (3) Directors nor more than seven (7) Directors, the exact number to be determined from time to time by the Board in accordance with the Declaration. The number of Directors initially constituting the Board (as hereinafter defined) shall be three (3).

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

<u>Name</u>	<u>Address</u>
H. Lewis Kellom	235 East 5 <sup>th</sup> Street Apopka, FL 32703
Richard A. Wentzell	235 East 5 <sup>th</sup> Street Apopka, FL 32703
Toby Best	235 East 5 <sup>th</sup> Street Apopka, FL 32703

The Developer reserves the right to appoint members to the Board so long as the Developer controls the Association in accordance with the provisions of the Declaration. During such period of time, Members shall not have the right to elect members to the Board. Except for the Developer and its representatives, every Director must be a member.

C. The initial Board shall serve unless the successor Developer's representatives are appointed or until turnover of control as provided for herein. Unless otherwise provided for herein, vacancies of the Board shall be filled in accordance with the provisions of the Bylaws.

D. At such time as the Members (other than the Developer) are permitted to elect officers and directors of the Association, the Board shall consist of three (3) Directors to be elected by Members of the Association. Voting shall be conducted in accordance with the provisions of the Bylaws.

#### ARTICLE XI INDEMNIFICATION

Every Director and every officer of the Association (and the Directors and/or officers as a group) shall be indemnified by the Association against all expenses and liabilities, including counsel fees (at all trial and appellate levels) reasonably incurred by, asserted against or imposed upon him or them in connection with any proceeding, litigation or settlement in which he may become involved by reason of his being or having been a Director or Officer of the Association, or arising in connection with the performance of his or their duties as officers or Directors, as the case may be. The foregoing provisions for indemnification shall apply whether or not he is a Director or officer at the time such expenses are incurred. Notwithstanding the above, in instances where a Director or officer admits or is adjudicated guilty of willful misfeasance or malfeasance in the performance of his duties, or any acts involving criminal liability, the indemnification provisions of these Articles shall not apply. Otherwise, the foregoing rights to indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which a Director or officer may be entitled whether by statute or common law.

#### ARTICLE XII BYLAWS

The Bylaws of the Association shall be adopted by the first Board, and thereafter may be altered, amended or rescinded in the manner provided for in the Bylaws. As is set forth in the Bylaws, the Bylaws may be amended by a majority vote of the members present or the affirmative approval of a majority of the board at a regular or special meeting of the Board.

#### ARTICLE XIII AMENDMENTS

A. Prior to the recording of the Declaration in the Public Records of Orange County, Florida, these Articles may be amended only by an instrument in writing signed by all of the Directors and filed in the Office of the Secretary of State of Florida. The instrument amending these Articles shall identify the particular Article of Articles being amended and give the exact language of such amendment, and a certified copy of such amendment shall always be attached to any certified copy of these Articles and shall be an exhibit to the Declaration upon the recording of any such Declaration.



B. After the recording of the Declaration in the Public Records of Orange County, Florida, amendment of these Articles requires the approval of at least two-thirds vote of the members.

C. A copy of each amendment shall be certified by the Secretary of State and recorded in the Public Records of Orange County, Florida.

D. Notwithstanding the foregoing provisions of this Article, there shall be no Amendment to these Articles which shall abridge, amend or alter the rights of the Developer, including the right to designate and select the Directors as provided herein, or the provisions of this Article, without the prior written consent therefor by the Developer.

#### ARTICLE XIV

In case of any conflict between these Articles and the Bylaws of the Association, these Articles shall control; and in case of any conflicts between these Articles and the Declaration, the Declaration shall control.

  
\_\_\_\_\_  
H. Lewis Kellom

Dated: December 20, 2010

STATE OF FLORIDA  
COUNTY OF ORANGE

I HEREBY CERTIFY that on this day, before me, a Notary Public duly authorized in the State and County named above to take acknowledgements, personally appeared H. Lewis Kellom, personally to me known to be the person described above as the Subscriber and who, under oath executed the foregoing Articles of incorporation, and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State aforesaid, this 20th day of December, 2010.

NOTARY PUBLIC

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

State of Florida at Large

MY COMMISSION EXPIRES:

CERTIFICATE DESIGNATING REGISTERED AGENT FOR  
SERVICE OF PROCESS

The Homeowners Association of Holly Creek, Phase II, Inc. desiring to organize as a not-for-profit corporation under the laws of the State of Florida, with its registered office at 235 East 5<sup>th</sup> Street, Apopka, Florida 32703, has named H. Lewis Kellom located at the above-registered office, as its Registered Agent to accept service of process within this State.

ACKNOWLEDGEMENT

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 the proper and complete performance of my duties.

  
\_\_\_\_\_  
NAME: H. Lewis Kellom  
TITLE: RESIDENT AGENT

DATE: December 20, 2010

FILED  
2010 DEC 27 AM 10:38  
CLERK OF COURT  
JULIA H. ROSE, F. 10105