

N16000010266

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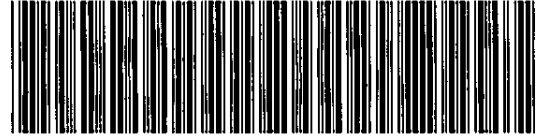
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COVER LETTER

TO: Amendment Section
Division of Corporations

NAME OF CORPORATION: Killian Commons Homeowners Association, Inc.

DOCUMENT NUMBER: N16000010266

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Mercedes M. Sellek, Esq.

(Name of Contact Person)

Maspons, Sellek, Jacobs, LLP

(Firm/ Company)

2333 Ponce de Leon Blvd., BAC Colonnade, Suite 314

(Address)

Coral Gables, FL 33134

(City/ State and Zip Code)

MSJ@msjcorpserv.com

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Mercedes M. Sellek, Esq.

(Name of Contact Person)

(786) 539-1425

(Area Code) (Daytime Telephone Number)

Enclosed is a check for the following amount made payable to the Florida Department of State:

☐ \$35 Filing Fee

☒ \$43.75 Filing Fee &
Certificate of Status

☐ \$43.75 Filing Fee &
Certified Copy
(Additional copy is
enclosed)

☐ \$52.50 Filing Fee
Certificate of Status
Certified Copy
(Additional Copy is
Enclosed)

Mailing Address

Amendment Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street Address

Amendment Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301



FLORIDA DEPARTMENT OF STATE
Division of Corporations

November 14, 2016

MERCEDES M. SELLEK
2333 PONCE DE LEON BLVD.
BAC COLONNADE, STE 314
CORAL GABLES, FL 33134

SUBJECT: KILLIAN COMMONS HOMEOWNERS ASSOCIATION, INC.
Ref. Number: N16000010266

We have received your document for KILLIAN COMMONS HOMEOWNERS ASSOCIATION, INC. and your check(s) totaling \$43.75. However, the enclosed document has not been filed and is being returned for the following correction(s):

Please file the document as either Articles of Amendment or Restated Articles of Incorporation pursuant to applicable Florida Statutes.

A certificate must accompany the Restated Articles of Incorporation setting forth one of the following statements: (1) The restatement was adopted by the board of directors and does not contain any amendments requiring member approval; OR (2) If the restatement contains an amendment requiring member approval, the date of adoption of the amendment by the members and a statement that the number of votes cast for the amendment was sufficient for approval.

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.

Carol Mustain
Regulatory Specialist II

Letter Number: 416A00024297

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FLORIDA DEPARTMENT OF STATE
Division of Corporations

January 13, 2017

MERCEDES M. SELLEK
2333 PONCE DE LEON BLVD.
BAC COLONNADE, STE 314
CORAL GABLES, FL 33134

SUBJECT: KILLIAN COMMONS HOMEOWNERS ASSOCIATION, INC.
Ref. Number: N16000010266

We have received your document for KILLIAN COMMONS HOMEOWNERS ASSOCIATION, INC. and your check(s) totaling \$43.75. However, the enclosed document has not been filed and is being returned for the following correction(s):

You failed to make the correction(s) requested in our previous letter.

Please file the document as either Articles of Amendment or Restated Articles of Incorporation pursuant to applicable Florida Statutes.

A certificate must accompany the Restated Articles of Incorporation setting forth one of the following statements: (1) The restatement was adopted by the board of directors and does not contain any amendments requiring member approval; OR (2) If the restatement contains an amendment requiring member approval, the date of adoption of the amendment by the members and a statement that the number of votes cast for the amendment was sufficient for approval.

Bylaws are not filed with this office. Please retain them for your records.

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.

Carol Mustain
Regulatory Specialist II

Letter Number: 416A00024297



MASPONS' SELLEK JACOBS
ATTORNEYS AT LAW

2333 PONCE DE LEON BOULEVARD
BAC COLONNADE OFFICE TOWER, SUITE 314
CORAL GABLES, FLORIDA 33134

MIGUEL A. MASPONS
MERCEDES M. SELLEK
KAI E. JACOBS
ALEJANDRA PAREDES
SUZETTE L. RUSSOMANNO

TELEPHONE: 786.539.1425
FACSIMILE: 786.411.1119
EMAIL: MSELLEK@MASPONS.COM

January 24, 2017

VIA- FEDERAL EXPRESS

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

RE: Killian Commons Homeowners Association, Inc., a Florida not-for-profit corporation
Ref. No.: N16000010266

To whom it may concern:

In connection with the above-referenced filing please find enclosed herewith the original executed Amended & Restated Article of Incorporation of Killian Commons Homeowners Association, Inc.

Per my conversation with Carol Mustian, I have removed the previously attached filing form and sent only the original executed document to be recorded. The letter attached to the rejected package has also been enclosed for your reference.

If you have any question or need anything further, please let us know.

Very truly yours,

MASPONS, SELLEK, JACOBS, LLP


Karina Mederos, Real Estate Clerk

Kmm/
Encls.

**AMENDED & RESTATED
ARTICLES OF INCORPORATION
OF
KILLIAN COMMONS HOMEOWNERS ASSOCIATION, INC.**

**THIS INSTRUMENT WAS PREPARED BY
AND UPON RECORDATION RETURN TO:**

**Mercedes M. Sellek, Esq.
Maspons, Sellek, Jacobs, LLP
2333 Ponce de Leon Blvd.
BAC Colonnade, Suite 314
Coral Gables, FL 33134**

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**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF**

KILLIAN COMMONS HOMEOWNERS ASSOCIATION, INC.

In compliance with the requirements of the laws of the State of Florida, the following are the Amended and Restated Articles of Incorporation for Killian Commons Homeowners Association, Inc.

1. **Name.** The name of the corporation shall be Killian Commons Homeowners Association, Inc. (the "Association").
2. **Principal Office.** The principal office of the Association is 10281 SW 72 Street, Suite 106, Miami, FL 33173.
3. **Registered Office - Registered Agent.** The name and street address of the Registered Office of the Association is:

**MSJ CORPORATE SERVICE, LLC
2333 Ponce De Leon Blvd
Suite 314
Coral Gables, FL 33134**

4. **Definitions.** A declaration entitled Declaration for Killian Commons (the "Declaration") has been (or will be) recorded in the Public Records of Miami-Dade County, Florida, and shall govern all of the operations of the community to be known as Killian Commons (the "Community"). All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.
5. **Purpose.** Association is formed to: (a) provide for ownership, operation, maintenance and preservation of the Common Areas, and improvements thereon; (b) perform the duties delegated to it in the Declaration; (c) administer the interests of Association and the Owners; (d) promote the health, safety and welfare of the Owners.
6. **Not-for-Profit.** Association is a not-for-profit Florida corporation and does not contemplate pecuniary gain to, or profit for, its members.
7. **Powers and Duties.** The powers of the Association shall include and be governed by the following:
 - 7.1. To perform all the duties and obligations of Association set forth in the Declaration and By-Laws, as herein provided.
 - 7.2. To enforce, by legal action or otherwise, the provisions of the Declaration and By-Laws and of all rules, regulations, covenants, restrictions and agreements governing or binding Association and Killian Commons.
 - 7.3. To fix, levy, collect and enforce payment, by any lawful means, of all Assessments pursuant to the terms of the Declaration, these Articles and By-Laws.

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TALLAHASSEE, FL 32399

- 7.4. To pay all Operating Costs, including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the property of Association.
- 7.5. To acquire (by gift, purchase or otherwise), annex, own, hold, improve, build upon, operate, maintain, convey, grant rights and easements, sell, dedicate, lease, transfer or otherwise dispose of real or personal property (including the Common Areas) in connection with the functions of Association except as limited by the Declaration.
- 7.6. To borrow money, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money or debts incurred.
- 7.7. To dedicate, grant, license, lease, concession, create easements upon, sell or transfer all or any part of Killian Commons to any public agency, entity, authority, utility or other person or entity for such purposes and subject to such conditions as it determines and as provided in the Declaration.
- 7.8. To participate in mergers and consolidations with other non-profit corporations organized for the same purposes.
- 7.9. To adopt, publish, promulgate or enforce rules, regulations, covenants, restrictions or agreements governing Association, Killian Commons, the Common Areas, Lots, and Homes as provided in the Declaration and to effectuate all of the purposes for which Association is organized.
- 7.10. To have and to exercise any and all powers, rights and privileges which a not-for-profit corporation organized under the laws of the State of Florida may now, or hereafter, have or exercise.
- 7.11. To employ personnel and retain independent contractors to contract for management of Association, Killian Commons, and the Common Areas as provided in the Declaration and to delegate in such contract all or any part of the powers and duties of Association.
- 7.12. To contract for services to be provided to, or for the benefit of, Association, Owners, the Common Areas, and Killian Commons as provided in the Declaration, such as, but not limited to, Telecommunications Services, maintenance, garbage pick-up, and utility services.
- 7.13. To establish committees and delegate certain of its functions to those committees.
- 7.14. To sue and be sued.
- 7.15. To contract with special taxing districts, if any, for any purpose.
- 8. **Owners and Membership.**
 - 8.1. **Membership.** The Members of the Association shall consist of all of the record Owners of Lots in Killian Commons from time to time.
 - 8.2. **Assignment.** The share of an Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Home for which that share is held. The funds and assets of the Association shall be expended, held or used

only for the benefit of the Owners and for the purposes authorized herein, in the Declaration, and in the By-Laws.

8.3. Voting. On all matters upon which the Owners shall be entitled to vote, there shall be only one (1) vote for each Lot, which vote shall be exercised or cast in the manner provided by the By-Laws. Any person or entity owning more than one (1) Lot shall be entitled to one (1) vote for each Lot owned.

8.4. Prior to Recordation of Declaration. Until such time as the real property comprising Killian Commons, and the improvements now and/or to be constructed thereon, are submitted to the community form of ownership by recordation of the Declaration in the Public Records of Miami-Dade County, Florida, the membership of the Association (the "Membership") shall be comprised of the Directors of the Association, each of whom shall be entitled to cast a vote on all matters upon which the Membership would be entitled to vote.

9. Dissolution. In the event of the dissolution of Association other than incident to a merger or consolidation, any member may petition the Circuit Court having jurisdiction of the Judicial Circuit of the State of Florida for the appointment of a receiver to manage its affairs of the dissolved Association and to manage the Common Areas, in the place and stead of 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 addition, if Association is dissolved, the Surface Water Management System shall be conveyed to an appropriate agency of local government. If a governmental agency will not accept the Surface Water Management System, then it must be dedicated to a similar non-profit corporation.

10. Term of Existence. The Association shall have perpetual existence.

11. Directors.

11.1. Number and Qualification. The property, business and affairs of the Association shall be managed by a Board of Directors (the "Board") consisting initially of three (3) directors, but subject to change as provided by the By-Laws. Directors appointed or designated by the Developer need not be Owners of the Association or residents of Homes in the Community. All other directors must be Owners.

11.2. Duties and Powers. All of the duties and powers of the Association existing under the Declaration, these Articles, and the By-Laws shall be exercised exclusively by the Board, its agents, contractors and/or employees, subject only to approval by Owners when such approval is specifically required by the Declaration.

11.3. Election; Removal. Directors shall be appointed, elected, and removed as provided in the By-Laws.

11.4. Current Directors. The names and addresses of the members of the current Board who shall hold office until their successors are appointed and/or elected, are as follows:

DIRECTORS:

Ada G. Fernandez
10281 SW 72 Street
Suite 106
Miami, FL 33173

Manuel E. Martinez-Gomez
10281 SW 72 Street
Suite 106
Miami, FL 33173

- 12. Officers.** The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board and shall serve at the pleasure of the Board. The names and addresses of the current officers who shall serve until their successors are designated by the Board are as follows:

PRESIDENT:

Manuel E. Martinez-Gomez
10281 SW 72 Street
Suite 106
Miami, FL 33173

VICE PRESIDENT AND SECRETARY:

Ada G. Fernandez
10281 SW 72 Street
Suite 106
Miami, FL 33173

Incorporator. The name and address of the Incorporator is as follows:

Manuel E. Martinez-Gomez
10281 SW 72 Street
Suite 106
Miami, FL 33173

13. Indemnification.

- 13.1. Indemnity.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, employee, officer, or agent of the Association, against expenses (including reasonable attorneys' fees and paraprofessional fees at trial and upon appeal), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceedings, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful.

- 13.2. Limitations on Indemnification.** Notwithstanding the foregoing, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have adjudged to be liable for gross negligence or intentional misconduct in the performance of his duties to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

- 13.3. Effect of Termination of Action.** 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 and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and

with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

13.4. Expenses. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 13.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and paraprofessional fees at trial and upon appeal) actually and reasonably incurred by him in connection therewith.

13.5. Approval. Any indemnification under Section 13.1 above (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, officer, employee or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in Section 13.1 above. Such determination shall be made (a) by the Board 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, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by a majority of the voting interests of the Owners.

13.6. Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in any specific case upon receipt of an undertaking by or on behalf of the affected director, officer, employee or agent to repay such amount until such time it shall ultimately be determined that he was not entitled to be indemnified by the Association as authorized in this Article 14.

13.7. Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the By-Laws, agreement, vote of Owners or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such person.

14. By-Laws. The first By-Laws of the Association shall be adopted by the Board and may be altered, amended or rescinded by the Board, Owners, and/or the Developer as provided in the By-Laws.

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

15.1. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

15.2. Proposal. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or Owners holding one-third (1/3) of the voting interests in the Association.

15.3. Approval. An amendment shall be approved once it is approved:

15.3.1. by Owners holding a majority of the voting interests in the Association present in person or by proxy at a Members meeting at which a quorum thereof has been attained and by not less than sixty-six and two thirds percent (66-2/3%) of the entire Board; or

15.3.2. by Owners holding eighty percent (80%) of the voting interests in the Association present in person or by proxy at a Members meeting at which a quorum has been attained; or

15.3.3. prior to the date upon which Owners other than Developer control the Board, by not less than one hundred percent (100%) of the entire Board.

15.4. **Attendance Not Required.** Directors not present in person at the meeting considering the amendment may express their agreement or disagreement in writing, provided that the same is delivered to the Secretary at or prior to the meeting. Such agreement or disagreement may not be used as a vote for or against the action taken and may not be used as a vote for the purpose of creating a quorum.

15.5. **Limitation.** Notwithstanding the foregoing, no amendment shall be made that is in conflict with the Declaration, or the By-Laws, nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers, or options herein provided in favor of or reserved to the Developer herein or in the Declaration unless the Developer shall join in the execution of the amendment.


15.6. **Recording.** A copy of each amendment 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 shall be recorded in the Public Records of Miami-Dade County, Florida.

15.7. **Developer.** Notwithstanding anything herein to the contrary, prior to the Turnover Date, the Developer may amend these Articles without the consent or joinder of any party whatsoever. This paragraph may not be amended.


15.8. **Adoption of Amendments.** There are no members entitled to vote on the amendment(s). The amendment(s) was/were adopted by the board of directors.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, being the Incorporator of this Association, has executed these Amended and Restated Articles of Incorporation as this 14th day of DECEMBER, 2016.

KILLIAN COMMONS HOMEOWNERS ASSOCIATION, INC.,
A Florida not for profit corporation

By: 
Name: Manuel E. Martinez-Gomez
Title: President

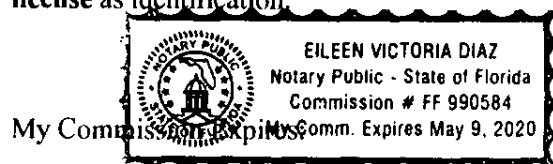
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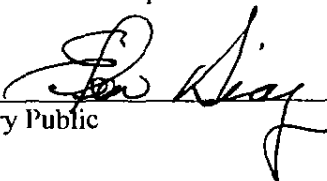
By: 
Name: Ada G. Fernandez
Title: Secretary

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 14TH day of DECEMBER 2016
Manuel E. Martinez-Gomez, who is personally known to me or who has produced his **Florida driver's**
license as identification.





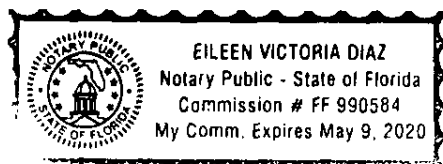
Notary Public

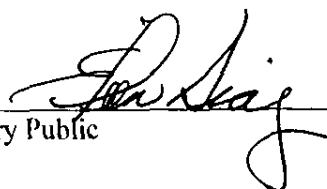
STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 14TH day of DECEMBER 2016
Ada G. Fernandez, who is personally known to me or who has produced her **Florida driver's** license as
identification.

My Commission Expires:






Notary Public

ACCEPTANCE BY REGISTERED AGENT

The undersigned, having been named to accept service of process for the above-stated corporation at the place designated in this certificate, hereby agrees to act in this capacity, and is familiar with, and accepts, the obligations of this position and further agrees to comply with the provisions of all statutes relative to the proper and complete performance of its duties.

Dated this 14 of December 2016.

MSJ CORPORATE SERVICE, LLC

By: 
Name: Mercedes M. Sellek, Esq., Manager
Title: Registered Agent