

N 26263

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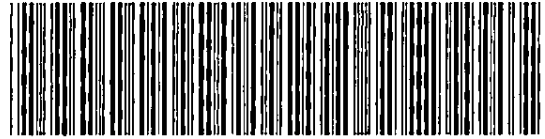
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RIVERBEND OF NAPLES MOBILE HOMEOWNERS ASSOCIATION, INC.
777 Walkerbilt Road, Unit 42, Naples, Florida 34110

12/21/2023

Dear Amendment Section of the Florida Department of State Division of Corporations;

Please find the cover letter and the amended list of Board of Directors attached as a result of the successful RECALL that occurred earlier in 2023. The Arbitrator provided the FINAL SUMMARY ORDER on August 18th, 2023, which is also included in this package.

We expect to file our normal state annual report in March 2024. However, please note the new address and contact information and Board of Directors in this package. Also enclosed is the \$35 filing fee.

Please let me know if you have any questions or need additional information. My phone is 617-842-2618. My email address is wendy.stamnas@gmail.com

The Corporate address is listed above on our letterhead.

Sincerely,

Wendy Stamnas
Riverbend President
617-842-2618

COVER LETTER

TO: Amendment Section
Division of Corporations

NAME OF CORPORATION: Riverbend of Naples Mobile Homeowners Association, Inc.

DOCUMENT NUMBER: N26263

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

Please return all correspondence concerning this matter to the following:

Wendy Stamnas
(Name of Contact Person)

Riverbend of Naples Mobile Homeowners Association, Inc.
(Firm/ Company)

777 Walkerbilt Road Unit 42
(Address)

Naples, FL 34110
(City/ State and Zip Code)

wendy.riverbend@gmail.com
E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Wendy Stamnas at 617 842-2618
(Name of Contact Person) (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
The Centre of Tallahassee
2415 N. Monroe Street, Suite 810
Tallahassee, FL 32303

Articles of Amendment
to
Articles of Incorporation
of

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2023 DEC 28 AM 8:59

Riverbend of Naples Mobile Homeowners Association, Inc.

(Name of Corporation as currently filed with the Florida Dept. of State)

N26263

(Document Number of Corporation (if known))

STATE
FL

Pursuant to the provisions of section 617.1006, Florida Statutes, this *Florida Not For Profit Corporation* adopts the following amendment(s) to its Articles of Incorporation:

A. If amending name, enter the new name of the corporation:

_____ *The new name must be distinguishable and contain the word "corporation" or "incorporated" or the abbreviation "Corp." or "Inc." "Company" or "Co." may not be used in the name.*

B. Enter new principal office address, if applicable:

(Principal office address MUST BE A STREET ADDRESS)

C. Enter new mailing address, if applicable:

(Mailing address MAY BE A POST OFFICE BOX)

777 Walkerbilt Road Unit 42
Naples, FL 34110

D. If amending the registered agent and/or registered office address in Florida, enter the name of the new registered agent and/or the new registered office address:

Name of New Registered Agent: _____

(Florida street address)

New Registered Office Address:

_____, Florida
(City) (Zip Code)

New Registered Agent's Signature, if changing Registered Agent:

I hereby accept the appointment as registered agent. I am familiar with and accept the obligations of the position.

Signature of New Registered Agent, if changing

If amending the Officers and/or Directors, enter the title and name of each officer/director being removed and title, name, and address of each Officer and/or Director being added:

(Attach additional sheets, if necessary)

Please note the officer/director title by the first letter of the office title:

P = President; V = Vice President; T = Treasurer; S = Secretary; D = Director; TR = Trustee; C = Chairman or Clerk; CEO = Chief Executive Officer; CFO = Chief Financial Officer. If an officer/director holds more than one title, list the first letter of each office held. President, Treasurer, Director would be PTD.

Changes should be noted in the following manner. Currently John Doe is listed as the PST and Mike Jones is listed as the V. There is a change. Mike Jones leaves the corporation, Sally Smith is named the V and S. These should be noted as John Doe, PT as a Change, Mike Jones, V as Remove, and Sally Smith, SV as an Add.

Example:

<input checked="" type="checkbox"/> Change	<u>PT</u>	<u>John Doe</u>
<input checked="" type="checkbox"/> Remove	<u>V</u>	<u>Mike Jones</u>
<input checked="" type="checkbox"/> Add	<u>SV</u>	<u>Sally Smith</u>

<u>Type of Action</u> (Check One)	<u>Title</u>	<u>Name</u>	<u>Address</u>
1) <input type="checkbox"/> Change <input type="checkbox"/> Add	<u>P</u>	<u>Phil Lutzi</u>	<u>C/O Compass Rose Management</u> <u>1010 NE 9th Street Suite A</u>
<input checked="" type="checkbox"/> Remove			<u>Cape Coral, FL 33909</u>
2) <input type="checkbox"/> Change <input checked="" type="checkbox"/> Add	<u>P</u>	<u>Wendy Stannas</u>	<u>777 Walkerbilt Road Unit 42</u> <u>Naples, FL 34110</u>
<input type="checkbox"/> Remove			
3) <input type="checkbox"/> Change <input type="checkbox"/> Add <input checked="" type="checkbox"/> Remove	<u>S</u>	<u>Laurie Hall</u>	<u>C/O Compass Rose Management</u> <u>1010 NE 9th Street Suite A</u> <u>Cape Coral, FL 33909</u>
4) <input type="checkbox"/> Change <input checked="" type="checkbox"/> Add	<u>S</u>	<u>Charles Weinbeck III</u>	<u>777 Walkerbilt Road Unit 42</u> <u>Naples, FL 34110</u>
<input type="checkbox"/> Remove			
5) <input type="checkbox"/> Change <input type="checkbox"/> Add	<u>D</u>	<u>George Mouzakis</u>	<u>C/O Compass Rose Management</u> <u>1010 NE 9th Street Suite A</u>
<input checked="" type="checkbox"/> Remove			<u>Cape Coral, FL 33909</u>
6) <input type="checkbox"/> Change <input checked="" type="checkbox"/> Add	<u>D</u>	<u>Kav Weidner</u>	<u>777 Walkerbilt Road Unit 42</u> <u>Naples, FL 34110</u>
<input type="checkbox"/> Remove			

E. If amending or adding additional Articles, enter change(s) here:

(attach additional sheets, if necessary). (Be specific)

ALSO Remove - Director Nancy Lutzi C/O Compass Rose Management, 1010 NE 9th Street Suite A, Cape Coral, FL 33909

Add - Director - John Timmermann - 777 Walkerbilt Road Unit 42, Naples FL 34110

Directors/Officers were changed as outlined above due to a SUCCESSFUL RECALL OF THE PRIOR BOARD MEMBERS

via a recall vote and later ratified by the Unanimous Vote of the Board of Directors via a duly noticed Board Meeting.

The ARBITRATOR'S FINAL SUMMARY ORDER was issued August 18, 2023, Case No 2023-03-3960. The Order and the Final Board vote are included in this package.

The date of each amendment(s) adoption: 8/18/2023, if other than the date this document was signed.

Effective date if applicable: _____
(no more than 90 days after amendment file date)

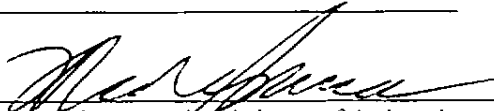
Note: If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

Adoption of Amendment(s) **(CHECK ONE)**

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

- There are no members or members entitled to vote on the amendment(s). The amendment(s) was/were adopted by the board of directors.

Dated 12/21/23 _____

Signature  _____
(By the chairman or vice chairman of the board, president or other officer-if directors have not been selected, by an incorporator – if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary)

Wendy Stannas

(Typed or printed name of person signing)

President

(Title of person signing)



RIVERBEND OF NAPLES MOBILE HOMEOWNERS' ASSOCIATION

Organizational Meeting of the Board of Directors

August 20, 2023

Meeting Minutes *APPROVED*

1. Call to Order

Wendy Stamnas called the meeting to order at 3:00 pm, for the purpose of electing officers subsequent to the Arbitrator's Final Recall Order of 8/18/2023, Case #2023-03-3960. The meeting was held via teleconference.

2. Proof of Notice

Let it be known that Notice was physically posted to the community bulletin board 48 hours in advance of the meeting in accordance with the Association's Bylaws & Florida Statute. The teleconference number was also emailed to all owners.

3. Establishment of Quorum

It was determined that a quorum was present with Wendy Stamnas, Charlie Weinbeck, Rick Demmink, Kay Weidner, John Roy Timmermann (JT) and Cristie Anderson in attendance.

Absent: Bob Morgan

4. Disposal of Minutes

n/a

5. Report of Officers n/a

6. Old Business n/a

7. New Business

a. Organizational meeting as a result of State of Florida - Recall Order Case: # No.2023-033960, ordered on 8/18/2023.

Board offices were filled as follows:

President: JT motioned to nominate Wendy, seconded by Rick, followed by unanimous vote;

Vice President: Wendy nominated Rick, seconded by JT, followed by unanimous vote;
Secretary: Wendy nominated Charlie, seconded by JT, followed by unanimous vote; Treasurer:
Wendy nominated Cristie, seconded by Rick, followed by unanimous vote.

ACTION: Wendy Stamnas elected President; Rick Demmink elected Vice President; Charlie Weinbeck elected Secretary; and Cristie Anderson elected Treasurer.

8. Adjournment of Meeting

With no further business to discuss, the meeting was adjourned at 3:21 PM.

Respectfully Submitted,

Charlie Weinbeck III

Charlie Weinbeck III
Secretary

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES

IN RE: PETITION FOR ARBITRATION: RECALL

RIVERBEND OF NAPLES MOBILE
HOMEOWNERS ASSOCIATION, INC.,

Petitioner,

v.

Case No. 2023-03-3960

UNIT OWNERS VOTING FOR RECALL,

Respondent.

FINAL SUMMARY ORDER

Issue

The issue in this case is whether the Association improperly failed to certify the written recall served on it on May 24, 2023?

Procedural History

On June 8, 2023, Riverbend of Naples Homeowners Association, Inc., (Association) filed a petition for mandatory non-binding arbitration that named Unit Owners Voting For Recall as the Respondents. The petition alleged that the Association's board of directors was correct in not certifying the recall of four members of the board of directors. On July 6, 2023, Respondents filed their Answer and Affirmative Defenses.

On July 27, 2023, a case management hearing was held with both parties present. At this hearing two issues were discussed: 1) the standard of review applicable to this case; and, 2) Respondents' affirmative defense that the Association did not

convene the required review of the recall ballots within five (5) business days after receipt of the ballots. As a result of these discussions an Order After Case Management Hearing was entered on July 28, 2023, that required the parties to brief the arbitrator on the appropriate standard of review of the recall ballots in this case. Both parties timely submitted their filings on this issue.

Findings of Fact

1. The Association is the corporate entity responsible for the operation of the Association pursuant to Chapters 617 and 723, Florida Statutes.
2. The Respondents are unit owners and are therefore members of the Association.
3. On May 24, 2023, Respondents served the Association, with twenty-four (24) written recall ballots that sought to recall four (4) members of the Association's board of directors. The written recall agreement utilized the standard recall ballot form found on the Division's website.
4. The directors sought to be recalled and the number of ballots in favor of recalling these directors is as follows: Laurie Hall (24); Phil Lutzi (24); Nancy Lutzi (24); and George Mousakis (24).
5. The names of the four (4) replacement candidates and votes for these candidates are as follows: Wendy Stamnas (24); John Roy Timmermann (24); Kay Weidner (24); and Charles Weinbeck (24).
6. There is a total of forty (40) voting interests in the Association.
7. A total of twenty-one (21) votes are needed to recall a director.

8. The minutes of the board of directors meeting to certify the recall reflect that the board rejected 7 ballots because:

- a. Unit 3: POA not on file.
- b. Unit 5: Invalid- not a valid signature.
- c. Unit 17: Authorized voter retracted vote.
- d. Unit 20: Invalid not recorded owner.
- e. Unit 29: Invalid- person authorized to vote did not vote – decease.
- f. Unit 33: Invalid- person authored to vote did not vote.
- g. Unit 40: Invalid- not an approved and recognized owner.

9. Based on the foregoing, the Board did not certify the recall of all four directors because it found that only seventeen (17) valid recall ballots had been served when a total of twenty-one (21) are needed to recall a director.

10. The owner of unit 29 signed the recall ballot on May 5, 2023. The owner of unit 29 died on May, 29, 2023.

Conclusions of Law

The arbitrator has jurisdiction over the parties and the subject matter of this dispute pursuant to Sections 723.078(2)(i), 723.1255 and 718.1255, Fla. Stat. These proceedings are subject to Rule 61B-50, et. seq. Florida Admirative Code ("F.A.C."). Where there are no disputed issues of material fact, a Summary Final Order may be issued. See, Rule 61B-50.119, F.A.C.

Rule 61B-50.105, F.A.C. governs the initiation of a recall in a mobile homeowner's association.¹ Rule 61B-50.105(5)(g) – (i), F.A.C. provide that the recall

¹ Rule 61B-33, F.A.C. also governs written recall agreements for homeowners' associations created pursuant to section 723.075, Florida Statutes.

petition shall contain:

(g) A copy of the minutes of the board meeting at which the board determined not to certify the recall;

(h) Each specific basis upon which the board based its determination not to certify the recall, including the unit or mobile home lot number and specific defect to which each challenge applies. Any specific reason upon which the board bases its decision not to certify the recall that is stated in the petition for recall arbitration, but absent from the board meeting minutes or attachments thereto, shall be ineffective and shall not be considered by the arbitrator. ...

(i) Any relevant sections of the bylaws, articles of incorporation, the declaration of condominium, cooperative documents, and rules, including all amendments thereto, as well as any or other documents which are pertinent to the petition; and

(j) Any other information which the petitioner contends is material.

Membership and Voting Rights

Article II of the Association's bylaws concerns membership in the Association and voting rights. The sections applicable to this dispute are:

2.1 Membership. Membership in this Corporation shall be limited to lessees or a family member of a lessee of RIVERBEND OF NAPLES MOBILE HOMEOWNERS COOPERATIVE, (hereafter "Park") who have purchased membership certificates in the Corporation. Upon the Transfer of a membership certificate, either voluntarily, in accordance with these Bylaws, or by operation of law, the transferee shall become a member of the Corporation if all the requirements for membership have been met. If the membership certificate is vested in more than one person, all of the persons owning the membership certificate shall be eligible to hold office, attend meeting and act as full members of the Corporation; but, as hereafter indicated, the vote of a membership certificate shall be case by the "voting member". If a membership certificate is owned by a corporation, the corporation may designate an individual officer of employee as its voting member.

2.3 Voting.

(a) The owner of each membership certificate shall be entitled to one vote. If an owner owns more than one membership certificate, he

shall be entitled to one vote fore each certificate. Each membership certificates' vote shall be divisible.

(e) Designation of Voting Member. If a membership certificate is owned by more than one member, the member entitled to cast the membership vote shall be designated in a certificate which shall be filed with the Secretary after being signed by all of the members owning an interest in such certificate. If a certificate is owned by a corporation, it shall designate the person entitled to cast the vote by certifying such person's name with the Secretary. Each such certificate shall be valid until revoked or superseded by a subsequent certificate. Notwithstanding the foregoing, if a certificate is owned jointly by a husband and wife, they may designate a voting member; or, not having designated a voting member, if only one is present at a meeting, that owner may case the membership vote; or, if they are both present at a meeting and are unable to agree upon any subject requiring a vote, then there shall be no vote case by the membership certificate on that particular subject at that meeting.

Ballot Review

The arbitrator has reviewed the seven ballots in question and finds the following ballots are valid:

a. Unit 3: The Association claims that the ballot for this unit is invalid because no power of attorney is on file. The ballot was signed by Daniel Baker on behalf of Walter Hanhivara. Neither section "(a)" nor section "(e)" of Article 2 of the Association's bylaws requires that a power of attorney be on file in order to cast a vote pursuant to said power of attorney. *See generally, Golden Palms Luxury Motorcoach Resort, Inc., v. Lot Owners Voting for Recall, Arb. Case No., 2022-05-1686, Summary Final Order (January 26, 2023) (There is no requirement in the Association's governing documents for voting certificates or other proof of authority to vote.)*

There is a requirement, per section "(e)" that a membership certificate be filed with the Association's Secretary, however, this requirement applies only when a unit is owned by more than one member or a corporation. Neither the ballot for this unit nor the

board meeting minutes evidence the fact that the unit is owned by more than one member or a corporation, therefore, the provisions of subsection "e" are inapplicable.

Furthermore, the ballot for this unit contains a hand-written note in the lower right-hand corner of the ballot that evidences the fact that the power of attorney was recorded in the official records of Collier County: "POA Inst 6359948 OR 6213 PG 612 Recorded Collier County." This Association is subject to the rules appearing in Chapter 61B-33, Florida Administrative Code (F.A.C.). Section 61B-33.003(5), F.A.C. states that "[w]ritten recall ballots may be executed by an individual holding a power of attorney or limited or general proxy given by the member(s) of record."

b. Unit 5: This ballot was rejected because it "does not appear to have a signature." The name of the unit owner, as printed on the ballot, is Mary Thompson. In the signature block the following is hand written: "Mary ♡ ☺".

What mark an individual chooses to represent her signature by is a matter of personal discretion. In *High Point of Delray Condominium Association, Section IV, Inc. v. Unit Owners Voting for Recall*, Arb. Case No. 2002-4727 Order Granting Motion to File Amended Petition, Partial Summary Final Order and Order Requiring Supplemental Information (May 29, 2002) the arbitrator noted:

The Petitioner alleges that no signature for the unit owner appears on the ballot. The Petitioner is incorrect in this assertion. A signature or mark, albeit unusual, appears on the ballot on both the signature line for the vote and the signature line for the authorization to cast the vote. The association does not offer any proof that this mark is not the signature of Ralph Bullers, nor does it allege that Ralph Bullers is not the unit owner of unit 870a. To "sign" means "1. To affix one's signature to. 2. To write (one's signature). 3. To approve or ratify (a document) by affixing a signature, seal, or other mark." The American Heritage Dictionary 1267 (3rd ed. 1993). See *Windermere Condominium Inc. v. Unit Owners Voting for Recall*, Arb. Case No. 97-2192, Final Order Certifying Recall,

(February 3, 1998). Thus, a signature may be rendered in any fashion that indicates the identity of the person making it.

c. Unit 20: The recall ballot for this unit is signed by Denise Demmink. The Association rejected this ballot because it was submitted by a person other than the recorded owner. The Association included with the petition the Voting Certificate for unit 20. This Voting Certificate names Denise Demmink as the "designee to cast votes on our behalf." The Voting Certificate is signed by Denis Demmink Trustee of the Ricky and Denise Demmink Trust and Rick Demmink Trustee of the Ricky and Denis Demmink Trust. Pursuant to Article II, section 2.3(e), of the Association's bylaws, this ballot is valid.

d. Unit 29: The Association rejected this ballot because the person authorized to vote did not vote and because the person is deceased. The unit owner signed the recall ballot on May 5, 2023. The Association was served with the recall on May 24, 2023. The owner of unit 29 died on May, 29, 2023.

A recall is effective when the ballots are served on an association. *The Woodlands Condominium Association, Inc., v. Unit Owners Voting for Recall*, Arb. Case No. 2020-02-6100, Order Approving Carolyn Ross as Petitioner's Qualified Representative and Requiring Petitioner to File Supplement to Petition, (June 15, 2010); and Rules 61B-23.0028 and 61B-50.105, Florida Administrative Code. The death of an owner voting for recall after the recall ballots are served on the Association does not render the ballot invalid. See, *Napalitano v. Turnberry Reserve Homeowners Association, Inc.*, Arb. Case No. 2020-00-1251, Summary Final Order (August 11, 2020) Fn. 1. (Arbitrator reduced the number of recall ballots by one to reflect the fact that one-member voting for recall died before the recall ballots were served on the Association.)

and, *Players Place Association, Inc., v Homeowners Voting for Recall*, Arb. Case No. 2010-05-6119, Summary Final Order (February 16, 2011) (Ballot rejected because owner died on May 28, 2010 and recall served on October 26, 2010).

Based on the forgoing, the board improperly rejected the above four ballots. There is no need to discuss the remaining three ballots that were rejected by the board because when the above four ballots are added to the seventeen ballots that were not rejected by the board, there are a total of twenty-one valid recall ballots which constitutes the majority of the unit owners and certify the recall.

ORDERED

1. The recall of board members Laurie Hall, Phil Lutzi, Nancy Lutzi and George Mousakis is hereby **CERTIFIED** and they are **REMOVED** from the board of directors effective as of the date of this order and shall not exercise the authority of the Association. The recalled Board Members shall, within five (5) days of the date of this order deliver any and all records of the Association in their possession to the replacement board members listed below.

2. Wendy Stamnas, John Roy Timmermann, Kay Weidner, and Charles Weinbeck are appointed directors effective as of the date of this order and shall serve as directors until the next regularly scheduled election of directors.

DONE AND ORDERED on August 18, 2023, in Tallahassee, Leon County, Florida.

J. A. Spejenkowski
J. A. Spejenkowski, Arbitrator
Office of the General Counsel
Condominium Arbitration and
Mediation Program
Department of Business &

Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-1030
Telephone: (850) 414-6867
Facsimile: (850) 487-0870

Certificate of Service

I hereby certify that a true and correct copy of the foregoing final order has been sent by U.S. Mail, postage prepaid, courtesy copy via E-mail to the following persons on August 18, 2023:

J. Robert Caves, III, Esq.
Becker & Poliakoff, P.A.
Six Mile Corporate Park
12140 Carissa Commerce Ct Ste 200
Fort Myers, FL 33966-5313
Email: rcaves@beckerlawyers.co

Alfred F. Gal, Jr., Esq.
Samouce & Gal, P.A.
3060 Tamiami Trl N Ste 202
Naples, FL 34103-2755
Email: alfredgal@sandglawfirm.com

J. A. Spejenkowski
J. A. Spejenkowski, Arbitrator