

N93000000905

LAW OFFICE OF

JO CLAIRE SPEAR, P.A.

877 EXECUTIVE CENTER DRIVE W., SUITE 303

ST. PETERSBURG, FLORIDA 33702

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FILED
98 DEC 11 PM 1:56
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

December 9, 1998

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*****35.00 *****35.00

Florida Department of State
Division of Corporations
409 E. Gaines Street
Tallahassee, FL 32399

Re: Filing of Amended and Restated Articles of Incorporation
for Harmony Homeowners Association, Inc.
(now to be known as Kell Estates Homeowners Association,
Inc.)

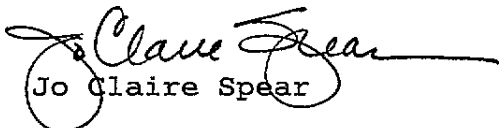
Dear Clerk:

Enclosed is an original and one (1) copy of the executed
Amended and Restated Articles of Incorporation of Harmony
Homeowners Association, Inc. (now to be known as Kell Estates
Homeowners Association, Inc.). Please endorse your approval of the
Amended and Restated Articles on the duplicate copy provided and
return same to me in the enclosed postage-paid envelope.

A check in the amount \$35.00 is enclosed to cover the filing
fee.

If you find any problems with the enclosed document, or
require additional information, please contact the undersigned by
telephone rather than returning any documents. Thank you for your
assistance.

Sincerely,


Jo Claire Spear

Enclosure

Amend & Restat. N.C.
12-21-98
CC

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION**

OF

**HARMONY HOMEOWNERS ASSOCIATION, INC.
(now to be known as KELL ESTATES HOMEOWNERS ASSOCIATION, INC.)**

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

We, the undersigned, being the sole member of Harmony Homeowners Association, Inc., now to be known as Kell Estates Homeowners Association, Inc., and all of its Board of Directors, acting pursuant to the provisions of chapter 617, Florida Statutes, hereby amend and restate the original Articles of Incorporation of Harmony Homeowners Association, Inc., instrument #N93000000905, as follows:

**ARTICLE I
NAME**

Section 1.1 Name and Address. The name of the corporation is hereby amended to be KELL ESTATES HOMEOWNERS ASSOCIATION, INC. KELL ESTATES HOMEOWNERS ASSOCIATION, INC. shall be referred to in the Articles of Incorporation as the "Association. The principal address of the Association shall be P.O. Box 82025, Tampa, Florida 33682, or such other address as the Board of Directors may from time to time designate.

**ARTICLE II
NONPROFIT**

Section 2.1. Nonprofit. This Association is not formed for pecuniary profit or financial gain. The Association shall be a non-profit corporation under the Florida Not-For-Profit Corporation Act and is irrevocably dedicated to and operated exclusively for non-profit purposes. Notwithstanding any other provisions of these Articles of Incorporation, the Association shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code of 1986, as amended, and shall not carry on any of the following activities:

a. The Association shall not participate in, or intervene in (including publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

b. No substantial part of the activities of the Association shall consist of carrying on propaganda, or otherwise attempting to influence legislation.

c. No dividends shall be paid to, and no part of the net income or assets of the Association shall inure to the benefit of any director, officer or other private individual, except that

the Association may pay reasonable compensation for services rendered.

ARTICLE III DURATION

Section 3.1. Duration. The term of the Association is perpetual.

ARTICLE IV PURPOSES/POWERS

Section 4.1. Purposes/Powers. The purposes for which the Association is organized are to provide for maintenance, preservation and architectural control of the residential lots and common area within that certain tract of land hereinafter referred to as Kell Estates (formerly known as Harmony) situated in Section 1, Township 27 South, Range 18 East, Hillsborough County, Florida hereafter referred to as the ("Property"), and to promote the health, safety and welfare of the residents within the Property and any additions as may hereafter be brought within the jurisdiction of this Association for this purpose to:

a. Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restriction of Harmony, recorded in O.R. Book 7107, Page 1118 of the public records of Hillsborough County, Florida, as amended and restated in its entirety by the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Harmony (now known as Kell Estates) recorded in the Public Records of Hillsborough County, Florida, hereinafter called the "Declaration", applicable to the Property, as such Declaration may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length (and capitalized words used in these Articles of Incorporation shall have the same meaning as set forth in the Declaration, unless otherwise specifically set forth herein);

b. Fix, levy liens on Lots, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

c. To establish a budget and to fix assessments to be levied against all Lots which are subject to assessment pursuant to the Declaration for the purpose of defraying the expenses and costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, including a reasonable contingency fund for the ensuing year and a reasonable

annual reserve for anticipated repairs, maintenance, improvements and replacement;

d. To place liens against any Lot subject to assessment for delinquent and unpaid assessments or charges and to bring suit for the foreclosure of such liens or to otherwise enforce the collection of such assessments and charges for the purpose of obtaining revenue in order to carry out the purposes and objectives of the Association;

e. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property, including but not limited to construction, installation, operation, maintenance, repair, and replacement of roads, utilities, systems, services, or other facilities on Association property for the welfare or betterment of the residents, in connection with the affairs of the Association,

f. Borrow money, and with the assent of three-fourths (3/4) of each class of members, mortgage, pledge, deed in trust, hypothecate any or all of its real or personal property for money borrowed or debts incurred;

g. Dedicate, sell or transfer all or any part of the property owned by the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by three-fourths (3/4) of each class of members, agreeing to such dedication, sale or transfer unless otherwise set forth in the Declaration;

h. Have and to exercise any and all powers, rights and privileges which a corporation organized under the Florida Not For Profit Corporation Act by law may now or hereafter have or exercise.

Section 4.2. Restrictions. Only those portions of the lands now owned by the Declaration (as defined in the Declaration), or which are actually subjected to the covenants, liens, charges, conditions, or restrictions of Kell Estates, by deed, indenture, agreement, or declaration executed by the Declarant or approved, ratified, or adopted by resolution of the Board of Directors of the Association shall be considered as the community or communities described in these Articles of Incorporation and the proper object of the powers and purposes of this Association.

ARTICLE V MEMBERSHIP

Section 5.1 Membership. The record owner of the fee interest on any Lot which is subject to the Declaration and to assessment by

the Association, including contract sellers, shall be a member of the Association, subject to the provisions of Section 5.2 hereof. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Section 5.2 Voting Rights. The Association shall have two (2) classes of voting membership:

a. **Class A.** Class A members shall be all Owners, other than the Declarant (as defined in the Declaration). Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership as shown by the records of the Association. When more than one person holds such interest or interests in any lot, all such persons shall be members and the vote for the lot shall be exercised as they may among themselves determine, but in no event shall more than one vote be cast for any one lot or living unit.

b. **Class B.** The Class B member shall be the Declarant (as defined in the Declaration), who shall be entitled to three votes for each lot in which it holds the interest required for membership as shown by the records of the Association.

Section 5.3 Suspension of Membership Rights. The membership rights (including voting rights) of any Member may be suspended by action of the Board of Directors if the Member fails to pay when due any assessment or charge lawfully imposed upon him or any property owned by him.

ARTICLE VI REGISTERED OFFICE AND AGENT

Section 6.1. Registered Office and Agent. The name of the registered agent of the Association is: Jo Claire Spear, Esquire, 877 Executive Center Drive West, Glades Building, Suite #303, St. Petersburg, FL 33702, or such other registered agent or office within the State of Florida as the board of Directors may from time to time designate.

ARTICLE VII DIRECTORS

Section 7.1. Board of Directors. The Association shall initially have two directors who shall constitute the Board of Directors and the governing body of the Association. The number of directors may be either increased or diminished from time to time as provided by the Bylaws, but shall never be less than one (1) nor more than three (3). The initial Board of Directors shall hold office until the first annual meeting of members, and at the first

annual meeting and thereafter, the members shall elect three directors for a term of one year in the manner determined by the Bylaws. Notwithstanding the foregoing, however, so long as the Declarant owns a Lot subject to the Declaration, the Declarant shall be entitled to appoint two of the three Directors to the Board. Directors may be removed and vacancies on the Board of Directors filled in the manner provided in the Bylaws. The names and addresses of those persons who shall act as directors until the election or appointment of qualified successors, or removal as provided in the Bylaws, are:

Robert W. Caldwell, III P.O. Box 1971
Boca Grande, FL 33921

Raymond J. Kearney, Jr. P.O. Box 82025
Tampa, FL 33682

Section 7.2. Voting. Except as herein otherwise specified, the decision of the majority of the directors currently serving shall be required and shall be sufficient to authorize any action on behalf of the Association. Each director shall be entitled to one vote on every matter presented to the Board of Directors.

ARTICLE VIII **DISSOLUTION**

Section 8.1. Dissolution. The Association may be dissolved with the assent given in writing and signed by not less than three-fourths (3/4) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes. The provisions of the Article shall be subject to any court supervised dissolution pursuant to the Florida Statutes.

ARTICLE IX **AMENDMENTS**

Section 9.1. Amendment. Amendment of these Articles shall require the assent of Seventy-Five Percent (75%) of the entire membership, except as provided herein. Amendments shall be made only upon resolution approved by a majority of the Board of Directors. Provided, however, that no amendment shall make any changes in the qualifications for membership nor the voting rights of the members, without approval in writing by all members and the joinder of all record owners of mortgages upon the Lots. No amendment shall be made that is in conflict with Florida Law or the Declaration unless the latter is amended to conform to the same.

A copy of each amendment adopted shall be filed with the Secretary of State, pursuant to the provisions of the applicable Florida Statutes. No amendment affecting the rights of the Class B Members shall be effective without the unanimous consent of all Class B Members.

For the purpose of restating and superseding the original Articles of Incorporation of Harmony Homeowners Association, Inc. pursuant to the laws of the State of Florida, we, the undersigned, constituting all the members of this Association, and all of its Board of Directors, have approved and executed these Amended and Restated Articles of Incorporation as of September 30, 1998.


These Amended and Restated Articles of Incorporation do not provide for an exchange, reclassification or cancellation of issued shares.

The date of adoption of these Amended and Restated Articles of Incorporation is as of September 30, 1998.

The Amendments were unanimously approved by all members and all directors of the Association.


"Member"

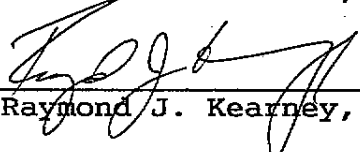
KELL ESTATES DEVELOPMENT, INC., a
Florida corporation

By: 
Robert W. Caldwell, III
As its President

(Corporate Seal)

"Directors"


By: 
Robert W. Caldwell, III


By: 
Raymond J. Kearney, Jr.

[Notarials on Following Page]

STATE OF FLORIDA
COUNTY OF PINELLAS


The foregoing instrument was acknowledged before me this 27th day of November, 1998, by Robert W. Caldwell, III, as President of KELL ESTATES DEVELOPMENT, INC., a Florida corporation, on behalf of the corporation, the sole member of the Association. He is personally known to me.

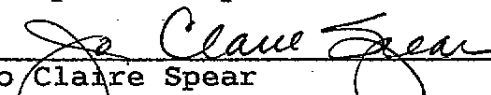
 Jo Claire Spear
My Commission CC767103
Expires October 5, 2002


Jo Claire Spear
Notary Public, State of Florida
Serial Number (if any): CC767103
My Commission Expires: 10/5/2002
(Notary Seal)

STATE OF FLORIDA
COUNTY OF PINELLAS

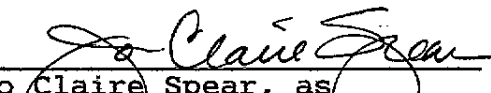
The foregoing instrument was acknowledged before me this 27th day of November, 1998, by Robert W. Caldwell and by Raymond J. Kearney, Jr., both of whom constitute the Board of Directors of the Association, and both of whom are personally known to me.

 Jo Claire Spear
My Commission CC767103
Expires October 5, 2002


Jo Claire Spear
Notary Public, State of Florida
Serial Number (if any): CC767103
My Commission Expires: 10/5/2002
(Notary Seal)

/ACCEPTANCE AND ACKNOWLEDGEMENT

I hereby accept to act as registered agent, and agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties and am familiar with and accept the obligations of Sections 617.0501 and 607.0505, Florida Statutes.


Jo Claire Spear, as
Registered Agent