

N96000005949

1201 HAYS STREET

800-342-8086

TAMPA, FL 33606

01-22-97

01-22-97



PRENCE HALL  
LEGAL & FINANCIAL SERVICES ACCOUNT NO. : 072100000032

REFERENCE : 163006 81805A

AUTHORIZATION :

COST LIMIT : \$ 122.50

*Patricia Pizot*

FILED  
95 NOV 21 PM 12:37  
TAMPA, FLORIDA

ORDER DATE : November 21, 1996

ORDER TIME : 9:52 AM

ORDER NO. : 163006-005

CUSTOMER NO: 81805A

CUSTOMER: Ms. Barbara F. Wilson  
THOMAS G. ECKERTY, ESQ

400002011054--6

Suite 89  
12734 Kenwood Lane  
Ft. Myers, FL 33907

DOMESTIC FILING

NAME: SOUTHWEST PROFESSIONAL HEALTH  
PARK OWNERS ASSOCIATION, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION  
       CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Deborah Schroder

EXAMINER'S INITIALS:

RECEIVED  
95 NOV 21 PM 12:43  
DIVISION OF INCORPORATION

*mc 11-21-96*

ARTICLES OF INCORPORATION  
OF  
SOUTHWEST PROFESSIONAL HEALTH PARK  
OWNERS ASSOCIATION, INC.

FILED  
95 MAY 21 PM 12:37  
RECORDED  
FILED

The undersigned by these Articles associate themselves for the purpose of forming a corporation not for profit and certify as follows:

ARTICLE I - NAME

1. The name of the Corporation shall be: SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS ASSOCIATION, INC., whose address is c/o 4099 Tamiami Trail North, Suite 305, Naples, Florida 34103. For convenience, the corporation shall be referred to in this instrument as the Association.

ARTICLE II - PURPOSES

2. The purpose for which the Corporation is organized is to establish an association of the owners of commercial lots in SOUTHWEST PROFESSIONAL HEALTH PARK, a planned unit development located upon the following lands in Collier County, Florida, legally described as follows:

The West One-Half (W1/2) of the Northwest One-Quarter (NW1/4) of the Northwest One-Quarter (NW1/4) of Section 26, Township 48 South, Range 25 East, Collier County, Florida, less the North 150 feet thereof,

and made a part hereof by reference (the "Property").

2.1. The Association shall make no distributions of income to its members, directors or officers.

ARTICLE III - DEFINITIONS

3. Unless a contrary intent is apparent, terms used in these Articles of Incorporation shall have the same meaning as set forth in the Declaration of Restrictive Covenants, Conditions, Restrictions and Easements for SOUTHWEST PROFESSIONAL HEALTH PARK (the "Declaration") to be recorded in the Public Records of Collier County, Florida, with respect to the Property.

ARTICLE IV - POWERS

4. The Powers of the Association shall include and be governed by the following provisions:

4.1. The Association shall have all of the common law and statutory powers of a corporation not for profit not in conflict with the terms of these Articles.

4.2. The Association shall have all of the powers and duties set forth in these Articles and the Declaration, and all of the powers and duties reasonable necessary or appropriate to

carry out the duties imposed on it by the Declaration and as it may be amended from time to time, including but not limited to the following:

- a. To make and collect assessments against members as unit owners to defray the costs, expenses and losses of the Condominium.
- b. To use the proceeds of assessments in the exercise of its powers and duties.
- c. The maintenance, repair, replacement and operation of the Common Property.
- d. The purchase of insurance upon the Common Property and insurance for the protection of the Association and its members.
- e. The reconstruction of improvements after casualty and the future improvement of the Common Property.
- f. To make and amend reasonable regulations respecting the use of the Common Property.
- g. To enforce by legal means the provisions of the Declaration, these Articles, the Bylaws of the Association for the use of the Common Property.
- h. To contract for the management of the Association and maintenance of the Common Property and to authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules, and maintenance of the Common Property.
- i. To contract for the management or operation of portions of the Common Property susceptible to separate management or operation, and to lease such portions.
- j. To employ personnel to perform the services required for proper operation for the Association and maintenance of the Common Property.

4.3. All funds and titles of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration, these Articles of Incorporation and the Bylaws.

4.4. The Powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the Bylaws.

4.5. If the Developer of the Property holds lots for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer:

a. Assessment of the Developer as a lot owner for capital improvement.

b. Any action by the Association that would be detrimental to the sales of lots by the Developer. However, an increase in assessments for common expenses without discrimination against the Developer shall not be deemed to be detrimental to the sales of lots.

#### ARTICLE V - MEMBERS

5. The members of the Association shall consist of all of the record owners of lots in SOUTHWEST PROFESSIONAL HEALTH PARK.

5.1. Change of membership in the Association shall be established by recording the Public Records of Collier County, Florida, a deed or other instrument establishing a record title to a lot and the delivery to the Association of proof of such recordation. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated. The Developer shall also be a member.

5.2. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his lot.

5.3. The owner of each lot shall be entitled to at least one vote as a member of the Association.

#### ARTICLE VI - VOTING RIGHTS

6. This Association shall be two (2) classes of voting memberships;

Class A: Class A Members shall be all of those owners as defined in Article V. Except as hereafter provided, the Developer, as a subsequently identified, will not be a Class A Member. There shall be one (1) vote appurtenant to each lot owned by a Class A Member. When more than one (1) person holds an interest in any lot, all such persons shall be members, and the vote for such lots shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such lot. The By-Laws may establish procedures for voting when title to a lot is held in the name of a corporation or more than one person or entity.

Class B: There shall be one (1) Class B Member, the Developer. The Class B Member shall have 21 votes in the affairs of the Association.

#### ARTICLE VII - BOARD OF ADMINISTRATION

7. The affairs of the Association will be managed by a Board of Administration whose members shall be designated as Directors of the Association. The number of Directors shall be determined by the Bylaws but in no case shall be less than three and in the absence of a specific number being designated by the Bylaws, the number of Directors on the Board of Administration shall be three. The Directors need not be members of the Association.

7.1. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Administration shall be filled in the manner provided by the Bylaws.

7.2. The non-developer unit owners must, at the time set for their right to do so, elect a majority of the members of the Board of Administration.

7.3. Prior to, or not more than 60 days after, the time that lot owners other than the Developer elect a majority of the members of the Board of Directors of the Association, the Developer shall relinquish control of the Association, and the lot owners shall accept control.

7.4. The names and addresses of the members of the first Board of Administration, also sometimes referred to as Directors, who shall hold office until their successors are elected and have qualified or until removed, are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
James R. Colosimo	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
James R. Hironen	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
Sue Myers	4099 Tamiami Trail North Suite 305 Naples, Florida 34103

#### ARTICLE VIII - OFFICERS

8. The affairs of the Association shall be administered by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and 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>OFFICE</u>	<u>NAMES</u>	<u>ADDRESSES</u>
President and Treasurer	James R. Hironen	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
Vice President and Secretary	James R. Colosimo	4099 Tamiami Trail North Suite 305 Naples, Florida 34103

#### ARTICLE IX - INDEMNIFICATION

9. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except when the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

#### ARTICLE X - BYLAWS

10. The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded by the Board of Directors or the members in the manner provided by the Bylaws.

#### ARTICLE XI - AMENDMENTS

11. Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

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

11.2. A resolution for the adoption of a proposed amendment may be proposed by either the Board of Administration of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than seventy-five percent (75%) of the entire membership of the Board of Administration, and by not less than seventy-five percent (75%) of the vote of the entire membership of the Association; or

(b) Not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or

(c) Until the first election of directors, only by all of the initial directors.

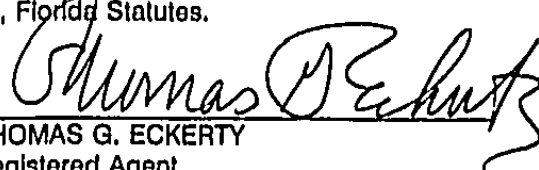
#### ARTICLE XII - TERM

12. The term of the Association shall be perpetual.

ARTICLE XIII - REGISTERED AGENT

13. The initial registered agent of this corporation is Thomas G. Eckerty, Esquire, 12734 Kenwood Lane, Suite 89, Fort Myers, Florida 33907.

I, THOMAS G. ECKERTY, Esquire, having been designated as the Registered Agent in the above and foregoing Articles, am familiar with and accept the obligations of the position of Registered Agent under Section 607.0505, Florida Statutes.

  
THOMAS G. ECKERTY  
Registered Agent

ARTICLE XIII - SUBSCRIBERS

14. The names and addresses of the subscriber of these Articles of Incorporation is as follows:

NAME

ADDRESS

THOMAS G. ECKERTY

12734 Kenwood Lane  
Suite 89  
Fort Myers, Florida 33907

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of Incorporation this 20th day of November, 1996.

Attest:

  
BARBARA F. WILSON

  
THOMAS G. ECKERTY, Incorporator


  
JAMIE BEERWART

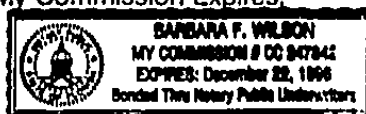
STATE OF FLORIDA )  
COUNTY OF LEE ) §:

The foregoing instrument was acknowledged before me this 20th day of November, 1996, by THOMAS G. ECKERTY as Incorporator who is personally known to me and who did/did not take an oath.

NOTARY STAMP OR SEAL

corp\jrc\swphpoa\aoi

  
BARBARA F. WILSON  
Notary Public  
My Commission Expires:



FILE  
96 NOV 21 11:37  
SECRETARY OF  
TALMISSE, FLORIDA



THE UNITED STATES  
CORPORATION  
COMPANY

N96000005949

ACCOUNT NO. : 072100000032  
REFERENCE : 448883 81805A  
AUTHORIZATION : *Kurt Halverson*  
COST LIMIT : \$ 35.00

FILED  
97 JUL -1 PM 1:44  
SECURITY  
TALLER

ORDER DATE : July 1, 1997

ORDER TIME : 2:34 PM

ORDER NO. : 448883-005

CUSTOMER NO: 81805A

CUSTOMER: Ms. Deborah K. Lewis  
Thomas G. Eckerty, Esq  
Suite 89  
12734 Kenwood Lane  
Ft. Myers, FL 33907

500002229155--8

*File 1st*

DOMESTIC AMENDMENT FILING

NAME: SOUTHWEST PROFESSIONAL HEALTH  
PARK OWNERS ASSOCIATION, INC.

EFFECTIVE DATE:

☒ ARTICLES OF AMENDMENT  
☐ RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

☐ CERTIFIED COPY  
☒ PLAIN STAMPED COPY  
☐ CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Daniel W Leggett

EXAMINER'S INITIALS:

7/16/97

*DDH*

*DDH*

*DDH*

97 JUL -1 PM 3:31  
Filing of Certificate of Amendment

*400350, 010050, 00524, 00547, 00672*





FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

July 2, 1997

CSC  
1201 Hays Street  
Tallahassee, FL 32301

SUBJECT: SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS  
ASSOCIATION, INC.  
Ref. Number: N96000005949

We have received your document for SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS ASSOCIATION, INC. and the authorization to debit your account in the amount of \$35.00. However, the document has not been filed and is being returned for the following:

If there are NO MEMBERS ENTITLED TO VOTE on a proposed amendment, the document must contain: (1) a statement that there are no members or members entitled to vote on the amendment and (2) the date of adoption of the amendment by the board of directors.

Paragraph 3 states that there are no officers or directors in the corporation but there are officers and directors listed on the computer. Please correct your amendment and give the date of adoption by the directors.

The document must be signed by the chairman, any vice chairman of the board of directors, its president, or another of its officers.

If you have any questions concerning the filing of your document, please call (850) 487-6907.

Annette Hogan  
Corporate Specialist

Letter Number: 897A00034675

**RESUBMIT**

Please give original  
submission date as file date.

AMENDMENT TO  
ARTICLES OF INCORPORATION  
OF  
SOUTHWEST PROFESSIONAL HEALTH PARK  
OWNERS ASSOCIATION, INC.

97 JUL -1 PM 1:44  
FILED  
SECRET  
TALLAHASSEE

The undersigned being the Incorporator of SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, (hereinafter referred to as the "Corporation"), and now desiring to amend said Articles of Incorporation, as provided for under Florida Statute 617.01201 and 617.1006, does hereby swear to and certify as follows:

1. That the corporation was formed on November 21, 1996, and was assigned Charter Number N96-000005949;

2. That the name of the Corporation is "SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS ASSOCIATION, INC.";

3. That the corporation has no members, has not been activated, and has no officers or directors as of the present date;

4. That the undersigned, being the Incorporator of the Corporation, has made various revisions and amendments to the Articles of Incorporation on June 27, 1997, as follows, to-wit:

A. ARTICLE I - NAME is amended to read as follows:

1. The name of the Corporation shall be: SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS ASSOCIATION, INC., ("Association"), whose address is c/o 4099 Tamiami Trail North, Suite 305, Naples, Florida 34103. For convenience, the corporation shall be referred to in this instrument as the Association.

B. ARTICLE II - PURPOSES is amended to read as follows:

2. The purpose for which the Corporation Association is organized is to establish an association of the owners of commercial lots in SOUTHWEST PROFESSIONAL HEALTH PARK, a planned unit development located upon the following lands in Collier County, Florida, legally described as follows:

The West One-Half (W1/2) of the Northwest One-Quarter (NW1/4) of the Northwest One-Quarter (NW1/4) of Section 26, Township 48 South, Range 25 East, Collier County, Florida, less the North 150 feet thereof,

and made a part hereof by reference (the "Property").

2.1. The Association shall make no distributions of income to its members, directors or officers, except as compensation for services rendered.

C. ARTICLE III - DEFINITIONS is amended to read as follows:

3. Unless a contrary intent is apparent, terms used in these Articles of Incorporation shall have the same meaning as set forth in the Declaration of Restrictive Covenants, ~~Conditions, Restrictions and Easements~~ Restrictions for SOUTHWEST PROFESSIONAL HEALTH PARK (the "Declaration") to be recorded in the Public Records of Collier County, Florida, with respect to the Property.

D. ARTICLE IV - POWERS is amended as follows:

4. The Powers of the Association shall include and be governed by the following provisions:

4.1. The Association shall have all of the common law and statutory powers of a corporation not for profit not in conflict with the terms of these Articles.

4.2. The Association shall have all of the powers and duties set forth in these Articles and the Declaration, and all of the powers and duties reasonably necessary or appropriate to carry out the duties imposed on it by the Declaration and as it may be amended from time to time, including but not limited to the following:

a. To make and collect assessments against members as unit owners Lot Owners within the Property to defray the costs, expenses and losses of the Condominium Association;

b. To use the proceeds of assessments in the exercise of its powers and duties;

c. The maintenance, repair, replacement and operation of the Common Property Areas;

d. The purchase of insurance upon the Common Property Areas and insurance for the protection of the Association and its members;

e. The reconstruction of improvements after casualty and the future improvement of the Common Property Areas;

f. To make and amend reasonable regulations respecting the use of the Common Property Areas;

g. To enforce by legal means the provisions of the Declaration, these Articles, the Bylaws of the Association for the use of the Common Property Areas;

h. To contract for the management of the Association and maintenance of the Common Property Areas and to authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules, and maintenance of the Common Property Areas;

i. To contract for the management or operation of portions of the Common Property Areas susceptible to separate management or operation, and to lease such portions.

j. To employ personnel to perform the services required for proper operation for the Association and maintenance of the Common Property Areas;

k. To contract for and acquire, or enter into leases for, property to be used as Common Areas, and to mortgage or otherwise encumber Association property in connection therewith.

4.3. All funds and titles of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration, these Articles of Incorporation and the Bylaws.

4.4. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the Bylaws.

4.5. ~~If the Developer of the Property~~ Declarant holds lots for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the ~~Developer~~ Declarant:

a. Assessment of the ~~Developer~~ Declarant as a lot-owner Lot Owner for capital improvement, except to the extent Declarant consents to such assessment, in accordance with the Declaration;

b. Any action by the Association that would be detrimental to the sales of lots by the ~~Developer~~ Declarant. However, an increase in assessments for common expenses without discrimination against the ~~Developer~~ Declarant, in accordance with the Declaration, shall not be deemed to be detrimental to the sales of lots.

E. ARTICLE V - MEMBERS is amended to read as follows:

5. The members of the Association shall consist of all of the record owners of lots in SOUTHWEST PROFESSIONAL HEALTH PARK.

5.1. Change of membership in the Association shall be established by recording the in Public Records of Collier County, Florida, a deed or other instrument establishing a record fee title to a lot and the delivery to the Association of proof of such recordation. The owner designated by such instrument thus becomes a member of the

Association and the membership of the prior owner is terminated. The Developer Declarant shall also be a member.

5.2. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his lot.

5.3. The owner of each lot shall be entitled to at least one vote as a member of the Association.

F. ARTICLE VI - VOTING RIGHTS is amended to read as follows:

6. This Association shall be two (2) classes of voting memberships;

Class A: Class A Members shall be all of those owners as defined in Article V; provided, however, the Declarant will not be a Class A Member, except in the case that Declarant holds record title to one or more lots, after the turnover of the control of the Association by Declarant. Except as hereafter provided, the Developer, as a subsequently identified, will not be a Class A Member. The Class A Members shall have a total of 10.5 votes. These votes shall be allocated among the five lots situated in SOUTHWEST PROFESSIONAL HEALTH PARK, by assigning one vote to each lot, plus additional votes based upon one vote per developable acres comprising said lot. There shall be one (1) vote appurtenant to each lot owned by a Class A Member. When more than one (1) person holds an interest in any lot, all such persons shall be members, and the vote for such lots shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such lot. The By-Laws may establish procedures for voting when title to a lot is held in the name of a corporation or more than one person or entity.

Class B: There shall be one (1) Class B Member, the Developer Declarant, until turnover of control of the Association by Declarant, as provided in the Declaration; thereafter Declarant shall be a Class A Member, if it then owns record title or one or more lots. The Class B Member shall have 21 votes in the affairs of the Association.

G. ARTICLE VII - BOARD OF ADMINISTRATION is amended to read as follows:

7. The affairs of the Association will be managed by a Board of Administration whose members shall be designated as Directors of the Association. The number of Directors shall be determined by the Bylaws but in no case shall be less than three and in the absence of a specific number being designated by the Bylaws, the number of Directors on the Board of Administration shall be three. The Directors need not be members of the Association.

7.1. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Administration shall be filled in the manner provided by the Bylaws.

7.2. The non-developer-unit-owners Declarant Lot Owners must, at the time set for their right to do so, elect a majority of the members of the Board of Administration, at the time of turnover of control of the Association to the Lot Owners, but no later than sixty (60) days thereafter.

7.3. Prior to, or not more than 60 days after, the time that Lot Owners other than the Developer Declarant elect a majority of the members of the Board of Directors Administration of the Association, the Developer Declarant shall relinquish control of the Association, and the Lot Owners shall accept control, subject to Declarant's right to appoint one Director after turnover of control of the Association, in accordance with the Declaration,

7.4. The names and addresses of the members of the first Board of Administration, also sometimes referred to as Directors, who shall hold office until their successors are elected and have qualified or until removed, are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
James R. Colosimo	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
James R. Hironen	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
Sue Myers	4099 Tamiami Trail North Suite 305 Naples, Florida 34103

H. ARTICLE VIII - OFFICERS is amended to read as follows:

8. The affairs of the Association shall be administered by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors Administration at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors Administration. The names and addresses of the officers who shall serve until their successors are elected, and have qualified or until removed designated by the Board of Directors Administration are as follows:

<u>OFFICE</u>	<u>NAMES</u>	<u>ADDRESSES</u>
President and Treasurer	James R. Hillronen	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
Vice President and Secretary	James R. Colosimo	4099 Tamiami Trail North Suite 305 Naples, Florida 34103

I. ARTICLE IX - INDEMNIFICATION is amended to read as follows:

9. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except when (i) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith, nor 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, that he had reasonable cause to believe his conduct was unlawful; and (ii) such court further specifically determines that indemnification should be denied, the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that 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 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. In the event of a settlement, the indemnification shall only apply when the Board of Directors Administration approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Association, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

J. ARTICLE X - BYLAWS is amended to read as follows:

10. The first Bylaws of the Association shall be adopted by the Board of Directors Administration and may be altered, amended or rescinded by the Board of Directors Administration or the members in the manner provided by the Bylaws.

K. ARTICLE XI - AMENDMENTS is amended to read as follows:

11. Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

11.1. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered, which notice shall be sent to members in accordance with their respective addresses on file with the Association, or in the absence thereof, to the street address of the member's lot situated within the Property.

11.2. A resolution for the adoption of a proposed amendment may be proposed by either the Board of Administration of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than seventy-five percent (75%) of the entire membership of the Board of Administration, and by not less than seventy-five percent (75%) of the vote of the entire membership of the Association; or

(b) Not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or


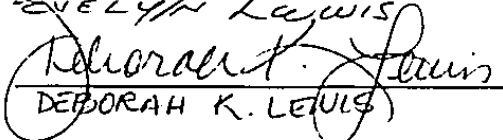
(c) Until the first election of directors, only by all of the initial directors.

L. ARTICLE XII - TERM is amended to read as follows:

12. The term of the Association shall be perpetual, unless dissolved according to law.

IN WITNESS WHEREOF, the undersigned being the Incorporator of this Corporation, has executed these Articles of Amendment this 30th day of June, 1997, and certifies and attests to the facts set forth herein.

Attest:

  
EVELYN LEWIS  
  
DEBORAH K. LEWIS

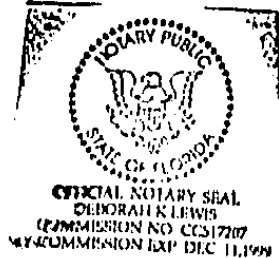
  
THOMAS G. ECKERTY, Incorporator



STATE OF FLORIDA     )  
                                  ) §:  
COUNTY OF LEE         )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of June, 1997, by THOMAS G. ECKERTY as Incorporator who is personally known to me and who did/did not take an oath.

NOTARY STAMP OR SEAL



Deborah K. Lewis  
Deborah K. Lewis, Notary Public  
My Commission Expires:  
Commission Number:



N96000005949

FILED  
JUL - 1 PM 1:53  
SECRETARY OF STATE  
WASHINGTON, D.C.

ACCOUNT NO. : 072100000032  
REFERENCE : 448883 81805A  
AUTHORIZATION : *Knut Halverson*  
COST LIMIT : \$ 87.50

ORDER DATE : July 1, 1997

ORDER TIME : 2:35 PM

600002229156--5

ORDER NO. : 448883-010

CUSTOMER NO: 81805A

CUSTOMER: Ms. Deborah K. Lewis  
Thomas G. Eckerty, Esq  
Suite 89  
12734 Kenwood Lane  
Ft. Myers, FL 33907

*Restated  
Articles  
File 2nd*

DOMESTIC AMENDMENT FILING

NAME: SOUTHWEST PROFESSIONAL HEALTH  
PARK OWNERS ASSOCIATION, INC.

EFFECTIVE DATE:

ARTICLES OF AMENDMENT  
XX RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
PLAIN STAMPED COPY  
CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Daniel W Leggett

EXAMINER'S INITIALS: \_\_\_\_\_

RECEIVED  
97 JUL - 1 PM 3:31  
DIVISION OF CORPORATION

\* 02250, 01048, 00547, 00672



FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

July 2, 1997

CSC  
1201 Hays Street  
Tallahassee, FL 32301

SUBJECT: SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS  
ASSOCIATION, INC.  
Ref. Number: N96000005949

We have received your document for SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS ASSOCIATION, INC. and the authorization to debit your account in the amount of \$87.50. However, the document has not been filed and is being returned for the following:

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.

The document must be signed by the chairman, any vice chairman of the board of directors, its president, or another of its officers.

If you have any questions concerning the filing of your document, please call (850) 487-6907.

Annette Hogan  
Corporate Specialist

Letter Number: 197A00034679

**RESUBMIT**  
Please give original  
submission date as file date.

**RESTATED ARTICLES OF INCORPORATION  
OF  
SOUTHWEST PROFESSIONAL HEALTH PARK  
OWNERS ASSOCIATION, INC.**

97 JUL -1 PM 1:53  
FILED  
SECRET  
TALLAHASSEE

The undersigned, by these Articles, associate themselves for the purpose of forming a corporation not for profit, and certifies that, as of this date, there are no members, officers, or directors of this corporation, and as incorporator, the undersigned certifies as follows:

**ARTICLE I - NAME**

1. The name of the Corporation shall be: SOUTHWEST PROFESSIONAL HEALTH PARK OWNERS ASSOCIATION, INC. ("Association"), whose address is c/o 4099 Tamiami Trail North, Suite 305, Naples, Florida 34103. For convenience, the corporation shall be referred to in this instrument as the Association.

**ARTICLE II - PURPOSES**

2. The purpose for which the Association is organized is to establish an association of the owners of commercial lots in SOUTHWEST PROFESSIONAL HEALTH PARK, a planned unit development located upon the following lands in Collier County, Florida, legally described as follows:

The West One-Half (W1/2) of the Northwest One-Quarter (NW1/4) of the Northwest One-Quarter (NW1/4) of Section 26, Township 48 South, Range 25 East, Collier County, Florida, less the North 150 feet thereof,

and made a part hereof by reference (the "Property").

2.1. The Association shall make no distributions of income to its members, directors or officers, except as compensation for services rendered.

**ARTICLE III - DEFINITIONS**

3. Unless a contrary intent is apparent, terms used in these Articles of Incorporation shall have the same meaning as set forth in the Declaration of Restrictions for SOUTHWEST PROFESSIONAL HEALTH PARK (the "Declaration") to be recorded in the Public Records of Collier County, Florida, with respect to the Property.

**ARTICLE IV - POWERS**

4. The Powers of the Association shall include and be governed by the following provisions:

4.1. The Association shall have all of the common law and statutory powers of a corporation not for profit not in conflict with the terms of these Articles.

4.2. The Association shall have all of the powers and duties set forth in these Articles and the Declaration, and all of the powers and duties reasonably necessary or appropriate to carry out the duties imposed on it by the Declaration and as it may be amended from time to time, including but not limited to the following:

- a. To make and collect assessments against members as Lot Owners within the Property to defray the costs, expenses and losses of the Association;
- b. To use the proceeds of assessments in the exercise of its powers and duties;
- c. The maintenance, repair, replacement and operation of the Common Areas;
- d. The purchase of insurance upon the Common Areas and insurance for the protection of the Association and its members;
- e. The reconstruction of improvements after casualty and the future improvement of the Common Areas;
- f. To make and amend reasonable regulations respecting the use of the Common Areas;
- g. To enforce by legal means the provisions of the Declaration, these Articles, the Bylaws of the Association for the use of the Common Areas;
- h. To contract for the management of the Association and maintenance of the Common Areas and to authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules, and maintenance of the Common Areas;
- i. To contract for the management or operation of portions of the Common Areas susceptible to separate management or operation, and to lease such portions;
- j. To employ personnel to perform the services required for proper operation for the Association and maintenance of the Common Areas;
- k. To contract for and acquire, or enter into leases for, property to be used as Common Areas, and to mortgage or otherwise encumber Association property in connection therewith.

4.3. All funds and titles of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration, these Articles of Incorporation and the Bylaws.

4.4. The Powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the Bylaws.

4.5. If the Declarant holds lots for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Declarant:

a. Assessment of the Declarant as a Lot Owner for capital improvement, except to the extent Declarant consents to such assessment, in accordance with the Declaration.

b. Any action by the Association that would be detrimental to the sales of lots by the Declarant. However, an increase in assessments for common expenses without discrimination against the Declarant, in accordance with the Declaration, shall not be deemed to be detrimental to the sales of lots.

#### **ARTICLE V - MEMBERS**

5. The members of the Association shall consist of all of the record owners of lots in SOUTHWEST PROFESSIONAL HEALTH PARK.

5.1. Change of membership in the Association shall be established by recording in the Public Records of Collier County, Florida, a deed or other instrument establishing a record fee title to a lot and the delivery to the Association of proof of such recordation. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated. The Declarant shall also be a member.

5.2. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his lot.

5.3. The owner of each lot shall be entitled to at least one vote as a member of the Association.

#### **ARTICLE VI - VOTING RIGHTS**

6. This Association shall be two (2) classes of voting memberships;

**Class A:** Class A Members shall be all of those owners as defined in Article V; provided, however, the Declarant will not be a Class A Member, except in the case that Declarant holds record title to one or more lots, after the turnover of the control of the Association by Declarant. The Class A Members shall have a total of 19.5 votes. These votes shall be allocated among the five lots situated in SOUTHWEST PROFESSIONAL HEALTH PARK, by assigning one vote to each lot, plus additional votes based upon one vote per developable acres comprising said lot. When more than one (1) person holds an interest in any lot, all such persons shall be members, and the vote for such lots shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such lot. The By-Laws may establish procedures for voting when title to a lot is held in the name of a corporation or more than one person or entity.

**Class B:** There shall be one (1) Class B Member, the Declarant, until turn over of control of the Association by Declarant, as provided in the Declaration; thereafter Declarant shall be a Class A Member, if it then owns record title to one or more lots. The Class B Member shall have 21 votes in the affairs of the Association.

## ARTICLE VII - BOARD OF ADMINISTRATION

7. The affairs of the Association will be managed by a Board of Administration whose members shall be designated as Directors of the Association. The number of Directors shall be determined by the Bylaws but in no case shall be less than three and in the absence of a specific number being designated by the Bylaws, the number of Directors on the Board of Administration shall be three. The Directors need not be members of the Association.

7.1. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Administration shall be filled in the manner provided by the Bylaws.

7.2. The non-Declarant Lot Owners must elect a majority of the members of the Board of Administration, at the time of turn over of control of the Association to the Lot Owners, but no later than sixty (60) days thereafter.

7.3. Prior to, or not more than sixty (60) days after, the time that lot owners other than the Declarant elect a majority of the members of the Board of Administration of the Association, the Declarant shall relinquish control of the Association, and the Lot Owners shall accept control, subject to Declarant's right to appoint one Director after turn over of control of the Association, in accordance with the Declaration.

7.4. The names and addresses of the members of the first Board of Administration, also sometimes referred to as Directors, who shall hold office until their successors are elected and have qualified or until removed, are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
James R. Colosimo	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
James R. Hironen	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
Sue Myers	4099 Tamiami Trail North Suite 305 Naples, Florida 34103

## ARTICLE VIII - OFFICERS

8. The affairs of the Association shall be administered by the officers designated in the Bylaws. The officers shall be elected by the Board of Administration at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Administration. The names and addresses of the officers who shall serve until their successors are elected, and have qualified or until removed by the Board of Administration are as follows:

<u>OFFICE</u>	<u>NAMES</u>	<u>ADDRESSES</u>
President and Treasurer	James R. Hironen	4099 Tamiami Trail North Suite 305 Naples, Florida 34103
Vice President and Secretary	James R. Colosimo	4099 Tamiami Trail North Suite 305 Naples, Florida 34103

#### **ARTICLE IX - INDEMNIFICATION**

9. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except when (i) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith, nor 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, that he had reasonable cause to believe his conduct was unlawful; and (ii) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceedings 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 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. In the event of a settlement, the indemnification shall apply only when the Board of Administration approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Association, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

#### **ARTICLE X - BYLAWS**

10. The first Bylaws of the Association shall be adopted by the Board of Administration and may be altered, amended or rescinded by the Board of Administration or the members in the manner provided by the Bylaws.

#### **ARTICLE XI - AMENDMENTS**

11. Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:



11.1. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered, which notice shall be sent to members in accordance with their respective addresses on file with the Association, or in the absence thereof, to the street address of the member's lot situated within the Property.

11.2. A resolution for the adoption of a proposed amendment may be proposed by either the Board of Administration of the Association or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:

(a) Not less than seventy-five percent (75%) of the entire membership of the Board of Administration, and by not less than seventy-five percent (75%) of the vote of the entire membership of the Association; or

(b) Not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or

(c) Until the first election of directors, only by all of the initial directors.

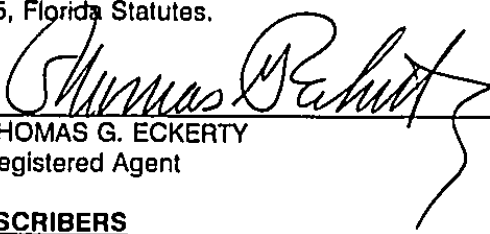
#### ARTICLE XII - TERM

12. The term of the Association shall be perpetual, unless dissolved according to law.

#### ARTICLE XIII - REGISTERED AGENT

13. The initial registered agent of this corporation is Thomas G. Eckerty, Esquire, 12734 Kenwood Lane, Suite 89, Fort Myers, Florida 33907.

I, THOMAS G. ECKERTY, Esquire, having been designated as the Registered Agent in the above and foregoing Articles, am familiar with and accept the obligations of the position of Registered Agent under Section 607.0505, Florida Statutes.

  
THOMAS G. ECKERTY  
Registered Agent

#### ARTICLE XIII - SUBSCRIBERS

14. The names and addresses of the subscriber of these Articles of Incorporation is as follows:

##### NAME

##### ADDRESS

THOMAS G. ECKERTY

12734 Kenwood Lane, Suite 89  
Fort Myers, Florida 33907

IN WITNESS WHEREOF, the undersigned Incorporator certifies that, as of this date, the Association has no members, officers, or directors, and has executed these Restated Articles of Incorporation this 15th day of July, 1997.

Attest:

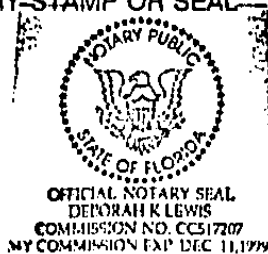
Evelyn Lewis  
EVELYN LEWIS  
Deborah K. Lewis  
DEBORAH K. LEWIS

Thomas G. Eckerty  
THOMAS G. ECKERTY, Incorporator

STATE OF FLORIDA )  
COUNTY OF LEE ) §:

The foregoing instrument was acknowledged before me this 15th day of July, 1997, by THOMAS G. ECKERTY as Incorporator who is personally known to me and who did/did not take an oath.

NOTARY STAMP OR SEAL



Deborah K. Lewis  
Deborah K. Lewis, Notary Public  
Commission Expires: \_\_\_\_\_  
Commission No: \_\_\_\_\_