

STATE OF INDIANA
OFFICE OF THE SECRETARY OF STATE

To Whom These Presents Come, Greeting:

CERTIFICATE OF INCORPORATION

BAY POINTE CO-OWNERS' ASSOCIATION, INC.

I, EDWIN J. SIMCOX, Secretary of State of Indiana, hereby certify that Articles of Incorporation of the above not-for-profit corporation, in the form prescribed by this Office, prepared and signed in duplicate by the incorporators and acknowledged and verified by the same before a Notary Public, have been presented to me at this office accompanied by the fees prescribed by law; that I have found such Articles conform to law; that I have endorsed my approval upon the duplicate copies of such Articles; that all fees have been paid as required by law; that one copy of such Articles has been filed in this office; and that the remaining copies of such Articles bearing the endorsement of my approval and filing has (have) been returned by me to the incorporator(s) or his (their) representatives; all as prescribed by the Indiana Not-For-Profit Corporation Act of 1971.

NOW, THEREFORE, I hereby issue to such Corporation this Certificate of Incorporation, and further certify that its corporate existence has begun.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis, this

5th day of

NOVEMBER 19 86

Edwin J. Simcox
EDWIN J. SIMCOX, Secretary of State
By *Carole Timpanaro*
Deputy



11/04/86

Indiana, as amended (the "Declaration").
pps. 59-98 in the office of the Recorder of Monroe County,
Property Regime, recorded October 23, 1986 at Misc. Rec. 171,
of property described in the Declaration of Bay Pointe Horizontal
but is not limited to, the Common Areas within that certain tract
("Internal Revenue Code"), which association property includes,
528(c) of the Internal Revenue Code of 1954, as amended,
nance and care of "association property", as defined in Section
(a) For the acquisition, construction, management, mainte-
tion is formed are:

Section 2.1. Purposes. The purposes for which the Corpora-

Purposes and Powers

ARTICLE II

Association, Inc.

The name of the Corporation is Bay Pointe Co-Owners'

Name

ARTICLE I

following Articles of Incorporation.

as amended (hereinafter referred to as the "Act") executes the
provisions of the Indiana Not-For-Profit Corporation Act of 1971,
(hereinafter referred to as the "Corporation") pursuant to the

The undersigned incorporator, desiring to form a corporation

BAY POINTE CO-OWNERS' ASSOCIATION, INC. NOV 5 4:48

ARTICLES OF INCORPORATION

FILED
IND. SECRETARY OF STATE
RECORDED
NOV 5 1986

(b) Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall not carry on any activities not permitted to be carried on by a corporation which qualifies for the exemption from Federal income tax with respect to its exempt function income under Section 528(c) of the Internal Revenue Code, or corresponding provisions of any subsequent Federal tax laws.

2.1.

(a) The Corporation is organized and operated exclusively for the purpose of being a non-profit "homeowners association", as defined in Section 528(c) of the Internal Revenue Code, or corresponding provisions of any subsequent Federal tax laws, and its activities shall be conducted in such a manner that no part of its net earnings shall inure to the benefit of any member, director, or officer or other private person, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Section 2.1.

Section 2.2. Non-Profit Purposes.

(b) Solely in furtherance of the aforesaid purposes, to transact any and all lawful business for which corporations may be incorporated under the Act, provided such business is not inconsistent with the Corporation being organized and operated exclusively for charitable purposes.

Section 2.3. Powers. Subject to any limitation or restriction imposed by the Act, any other law, or any other provision of these Articles of Incorporation, the Corporation shall have the power:

(a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Corporation as set forth in the Declaration, as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) To fix, levy, collect and enforce payment of, 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 incidental to the conduct of the business of the Corporation, including all licenses, taxes or governmental charges levied or imposed against the property of the Corporation;

(c) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for the public use or otherwise dispose of real or personal property which is held in title by this Corporation in connection with the affairs of the Corporation.

(d) To borrow money, and with the assent of two-thirds (2/3) of the members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property for money borrowed or debts incurred;

tion, dispose of all the assets of the Corporation exclusively provision for the payment of all the liabilities of the Corporation, the board of directors shall, after paying or making share in the distribution of the Corporation's assets. Upon director, officer, or any private individual will be entitled to (d) Upon dissolution of the Corporation, no member, ment, maintenance, and care of association property.

of its expenditures for the acquisition, construction, management, (c) The Corporation must make ninety percent (90%) or more of its gross income from membership dues, fees or assessments from the owners of residential units.

(b) The Corporation must receive sixty percent (60%) or more of its gross income from membership dues, fees or assessments from the owners of residential units. (a) The Corporation shall not issue capital stock.

Section 2.4. Limitations on Powers.

hereafter amended, and by the common law. Corporation Law of the State of Indiana, as now existing or privileges granted to a corporation by the Not-For-Profit purposes hereinbefore set forth any and all powers, rights and (f) To have, exercise and enjoy in furtherance of the

otherwise provided in the Declaration; and members, agreeing to such dedication, sale or transfer, except as unless an instrument has been signed by two-thirds (2/3) of the the members. No such dedication or transfer shall be effective purposes and subject to such conditions as may be agreed to by Area to any public agency, authority, or utility for such (e) To dedicate, sell or transfer any part of the Common

for the purposes of the Corporation as the board of directors shall determine. Any such assets not so disposed of shall be disposed of by the Judge of the Circuit Court of Monroe County, Indiana, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE III

Term of Existence

The Corporation shall have perpetual existence.

ARTICLE IV

Resident Agent and Principal Office

Section 4.1. Resident Agent. The name and post office address of the resident agent of the corporation are Max R. Kendall, Quality Village Builders, Inc., 8910 Purdue Road, Suite 150, Indianapolis, Indiana 46268.

Section 4.2. Principal Office. The post office address of the principal office of the Corporation is 8910 Purdue Road, Suite 150, Indianapolis, Indiana 46268.

ARTICLE V

Membership

Section 5.1. Classes. The Corporation shall have one class of voting members and no classes of non-voting members. Subject to such additional qualifications and conditions as may be prescribed from time to time in the By-Laws of the Corporation, membership is limited to those persons who are the record owners

of a fee simple title to a "Dwelling Unit", as the same is

defined in the Declaration.

Section 5.2. Rights, Preferences, Limitations and Restriction

Classes. No rights, preferences, limitations restrictive-

tions on the classes of membership shall exist other than those specified herein, in the By-laws of the Corporation or by law.

Section 5.3. Voting Rights of Members. Each member in good

standing shall be entitled to voting rights as follows:

(a) Number of Votes. To facilitate the orderly conduct of

the meeting, each member shall be entitled to cast his or her Percentage Vote, as defined in the Declaration on each matter coming before the meeting. The total of Percentage Votes for or against any matter shall then be divided either by 100 (being the total of all Percentage Votes in the Regime) to determine the respective proportions of members who support or oppose such matter, or by the total Percentage Votes of Owners which are present or represented at such meeting to determine the respective proportions of members present or represented at such meeting who support or oppose such matter.

(b) Multiple Owners. When the Owner of a Dwelling Unit

constitutes more than one person or entity, or is a partnership, there shall be only one voting representative entitled to cast the Percentage Vote allocable to that Dwelling Unit. At the time of acquisition of title to a Dwelling Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Corporation an

irrevocable proxy appointing one of such persons or partners as the voting representative for such Dwelling Unit which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies, or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 5.3, which shall constitute relinquishment of his right to act as voting representative for the Dwelling Unit at such meeting or meetings.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the Percentage Vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled.

(d) PROXY. A member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the member shall duly designate his attorney-in-fact in writing, delivered to the Corporation prior to the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these Articles, the By-Laws, or the Act, the presence of members or their duly authorized representatives holding a majority of the total Percentage Vote shall constitute

By-laws of the Corporation or required by law.

qualifications as may be specified from time to time in the
Section 6.2. Qualifications. Each director shall have such

shall be three (3).

the By-laws do not specify the number of directors, the number
be three (3) and the maximum number shall be seven (7). Whenever
Corporation. The minimum number of directors so specified shall
shall be specified from time to time in the By-laws of the
consist of three (3) directors. The exact number of directors
Section 6.1. Number. The initial board of directors shall

Board of Directors

ARTICLE VI

shall be deemed one Owner.

tenants in common, joint tenants, or tenants by the entities
Unit. Persons or entities owning a single Dwelling Unit as
combination thereof, who owns the fee simple title to a Dwelling
partnership, association, trust or other legal entity, or any
(f) The term "Owner" means a person, firm, corporation,

such meeting.

mean a majority of the persons or votes present or represented at
applicable provisions set forth in the Declaration, and shall not
(50%) of the total Percentage Vote as determined by the ap-
unless otherwise expressly indicated, more than fifty percent
"majority of the vote", as used in these Articles, shall mean,
a quorum at all meetings. The terms "majority of members" and

Upon its incorporation, the corporation is assuming control of real property designated as Bay Pointe Horizontal Property Regime and certain cash and other assets in connection therewith, valued at more than \$1,000.00.

Statement of Property

ARTICLE VIII

<u>Name</u>	Phillip J. Stoffregen
<u>Addresses</u>	One American Square Box 82001 Indianapolis, Indiana 46282

are:

The name and address of the incorporator of the Corporation

Name and Address of Incorporator

ARTICLE VII

<u>Name</u>	Max R. Kendall
<u>Addresses</u>	8910 Purdue Road Suite 150 Indianapolis, Indiana 46268
<u>Name</u>	Gerald K. Pedigo
<u>Addresses</u>	9001 Wesleyan Road Suite 115 Indianapolis, Indiana 46268
<u>Name</u>	Phillip K. Haslak
<u>Addresses</u>	Merchants Plaza, East Tower Suite 1135 101 West Washington Street Indianapolis, Indiana 46204

of managers, of the Corporation are:

addresses of the initial board of directors, also known as board
Section 6.3. Initial Board of Directors. The names and

Provisions for Regulation and Conduct
Of The Affairs Of The Corporation

ARTICLE IX

Section 9.1 Directors; Amendment of Articles. Other

provisions, consistent with the laws of the State of Indiana, for the regulation and conduct of the affairs of the Corporation, and creating, defining, limiting or regulating the powers of the Corporation, the directors or the members are as follows:

(a) The affairs of the Corporation shall be managed initially by the board of three (3) directors set forth in Article VI, Section 6.3, above, who shall serve until the date on which control of the Association is turned over to the members, as provided in the Declaration, at which time the members shall elect one director for a term of one year, one director for a term of two years and one director for a term of three years; and at each annual meeting thereafter the members shall elect a director, for a term of three years to replace the outgoing director. All additional directors shall serve in the same manner.

(b) Amendment of these Articles shall require the assent of not less than sixty-six and two-thirds percent (66 2/3%) of all Owners.

Section 9.2. Place of Meetings. Meetings of the members

and of the board of directors of the Corporation shall be held at such places, either within or without the State of Indiana, as shall be specified in the respective calls and notices or waivers

(a) The Corporation shall indemnify any person as of right who is or was a director, officer, or employee of this Corporation, or is or was serving as a director, officer, or employee of another corporation, partnership, or other enterprise at the request of the Corporation, against expenses (including attorney's fees), judgments, fines, penalties, and amounts paid in settlement reasonably incurred by such person, to the fullest extent now or hereafter permitted by law, in connection with or resulting from any claim, action, suit, or proceeding (whether actual or threatened, civil, criminal, administrative or investigative, or in connection with an appeal relating thereto), in which such person may be involved as a party or otherwise by reason of being or having been a director, officer, or employee of the Corporation or of such other organization; provided, such person acted in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation and, with respect to any criminal action or proceeding, in a manner which he or she had no reasonable cause to believe was unlawful. The termination of any claim, action, suit, or proceeding by judgment, order, settlement (whether with or without court approval), 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

Section 9.3. Indemnification.

of the Corporation.
of notice of such meetings given in accordance with the By-laws

and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action, suit, or proceeding, in a manner which he or she had no reasonable cause to believe was unlawful.

(b) Any director, officer, or employee of the Corporation who has been successful as a party on the merits or otherwise in the defense of any claim, action, suit, or proceedings referred to in the first sentence of Section 9.3(a) shall be indemnified as of right against expenses (including attorneys' fees) reasonably incurred by him or her in connection therewith (except to the extent covered by insurance).

(c) Except as provided in Section 9.3(b) above, any indemnification under Section 9.3(a) shall be made by the Corporation only upon a determination that indemnification of the particular director, officer, or employee is proper in the circumstances because such person has met the applicable standards of conduct set forth in Section 9.3(a). Such determination shall be made (i) by the board of directors of the Corporation by a majority vote of a quorum consisting of members of the board of directors who were not parties to such claim, action, suit, or proceeding, or (ii) if such a quorum is not obtainable or if so directed by a majority vote of a quorum consisting of members of the board of directors who were not parties to such claim, action, suit, or proceeding, by independent legal counsel (who may be regular counsel of the Corporation) in a written opinion, or (iii) by vote of the members of the Corporation.

(e) This Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Section 9.3, together with expenses actually and reasonably incurred by such person in connection with the defense thereof; provided that when and to the extent that the Corporation has purchased and maintained such insurance, it shall have

(d) The indemnification provided by this Section 9.3 shall not be deemed exclusive of any other rights to which a director, officer, or employee may be entitled under any by-law, resolution, agreement, vote of the members, or otherwise, and shall continue as to a person who has ceased to be a director, officer, or employee of the Corporation, and shall inure to the benefit of the heirs, executors, and administrators of any such person. The indemnification provided by this Section 9.3 shall be applicable to claims, actions, suits, or proceedings made or commenced after the adoption hereof, arising from acts or omissions to act occurring whether before or after the adoption hereof.

IN WITNESS WHEREOF, the undersigned incorporator executes these Articles of Incorporation and verifies subject to penalties of perjury that the facts contained herein are true, representing and beforehand to the Secretary of State of the State of Indiana and all persons whom it may concern that a membership list or lists of the above-named Corporation for which a Certificate of Incorporation is hereby applied have heretofore been opened in

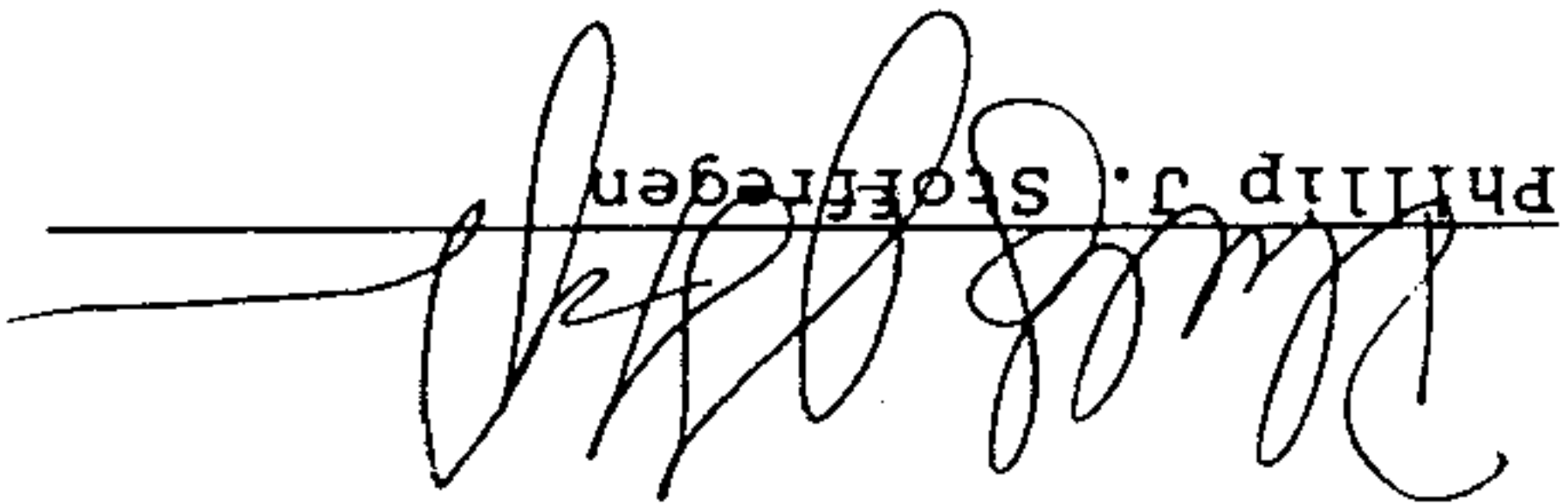
authorization or approval of the members of the Corporation. the Corporation, all the powers of the Corporation without hereby authorized to exercise, in furtherance of the purposes of of Incorporation, the board of directors of the Corporation is any limitation or restriction imposed by law or by these Articles Section 9.6. Powers of the Board of Directors. Subject to

Corporation. Indiana, for the regulation and management of the affairs of the other provisions consistent with the laws of the State of be amended as set forth in the By-laws. Said By-laws may contain Section 9.5. By-Laws. The By-laws of the Corporation may

manner provided by the board of directors of the Corporation. rendered in the course of such employment as may be fixed in the employee may be paid such compensation for services actually nals as are deemed necessary may be employed, and each such out the purposes and activities of the Corporation, such individ- Section 9.4. Compensation of Employees. In order to carry

no duty under this Section 9.3 to indemnify any such person to the extent such liability is covered by such insurance.

This instrument was prepared by Phillip J. Stoffregen, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.


Phillip J. Stoffregen

Dated this 4th day of November, 1986.

signed such membership list.

accordance with the Act, and that at least one (1) person has