

BALDWIN COUNTY, ALABAMA
JUDGE ADRIAN T. JOHNS
Filed/cert. 12/22/2009 1:12 PM
TOTAL \$ 35 00
6 Pages

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ARTICLES OF INCORPORATION
OF
WILKINS CREEK ESTATES PROPERTY OWNERS ASSOCIATION, INC.
(Under the Alabama Non-Profit Corporation Act)

**ARTICLES OF INCORPORATION
OF
WILKINS CREEK ESTATES
PROPERTY OWNERS ASSOCIATION, INC.**

(Under the Alabama Non-Profit Corporation Act)

KNOW ALL MEN by these ARTICLES OF INCORPORATION, executed and filed with the office of the Judge of Probate of Baldwin County, Alabama, by the undersigned PHOENIX REAL ESTATE FUND I, LLC, a Delaware Limited Liability Company, as Assignee of WILKINS CREEK, L.L.C., a Delaware Limited Liability Company, who does by executing and filing these Articles form a Non-Profit Corporation under and in accordance with the Alabama Non-Profit Corporation Act (hereinafter sometimes called "Act"), Code of Alabama (1975) as amended (hereinafter sometimes called "Code"), Title 10, Chapter 3A, Sections 10-3A-1 through 10-3A-225. and all other applicable laws in effect now or at any time hereafter during the existence of this Non-Profit Corporation, and that to said end the undersigned does elect, declare and certify as follows:

**ARTICLE I
NAME**

The name of the Corporation is WILKINS CREEK ESTATES PROPERTY OWNERS ASSOCIATION, INC. (hereinafter sometimes called "Corporation").

**ARTICLE II
REGISTERED AGENT**

The initial registered agent and initial registered office of the Corporation shall be:

Phoenix Real Estate Fund I, LLC

500 Spanish Fort Blvd., Apt. 61
Spanish Fort, Alabama 36527

**ARTICLE III
DURATION**

The duration of the Corporation shall be perpetual.

**ARTICLE IV
PURPOSE**

The purpose for which the Corporation is formed is to carry out the functions assigned to it in that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for WILKINS CREEK ESTATES (hereinafter called "the Declaration"), recorded at Instrument Number 1032747 in the records of the office of the Judge of Probate of Baldwin County and to do such other lawful things as the Corporation may elect consistent with the Act. Terms that are capitalized in these Articles shall have the meaning ascribed to them in the Declaration or in the Bylaws unless the context clearly requires otherwise.

**ARTICLE V
MEMBERS**

The Corporation shall have one class of members as set forth in the Declaration and the Bylaws.

**ARTICLE VI
BOARD OF DIRECTORS**

The affairs of the Corporation shall be managed by a Board of Directors consisting, initially, of three (3) persons (hereinafter called "Directors"). As more particularly provided in the Bylaws during the Period of Declarant Control, all Directors shall be appointed by the Declarant.

ARTICLE VII
INITIAL DIRECTORS

The Initial Board of Directors and the address of each such Director are as follows:

<u>William G. Sanders, Jr.</u>	<u>RBC Bank Building</u> <u>1927 1st Avenue North, 5th Floor</u> <u>Birmingham, Alabama 35203</u>
<u>John J. McMahon, III</u>	<u>RBC Bank Building</u> <u>1927 1st Avenue North, 5th Floor</u> <u>Birmingham, Alabama 35203</u>
<u>Steven P. McMahon</u>	<u>Yance, Inge & Associates, Inc</u> <u>169 Dauphin Street, Suite 101</u> <u>Mobile, Alabama 36602</u>

ARTICLE VIII
OFFICERS

The officers of the Corporation shall consist of a President, a Vice President, a Secretary, a Treasurer, and such other officers as may be determined by the Board of Directors. The initial officers shall be:

<u>Steven P. McMahon</u>	President
<u>John J. McMahon, III</u>	Vice President
<u>William G. Sanders, Jr.</u>	Secretary
<u>William G. Sanders, Jr.</u>	Treasurer

ARTICLE IX
ORIGINAL INCORPORATOR

The Original Incorporator is PHOENIX REAL ESTATE FUND I, LLC, a Delaware Limited Liability Company, as Assignee of WILKINS CREEK, L.L.C., and its address is

RBC Bank Building
1927 1st Avenue North, 5th Floor
Birmingham, Alabama 35203

ARTICLE X INDEMNITY

As partial inducement to the Directors and officers of the Corporation to accept such positions, the Corporation is and shall henceforth be obligated to indemnify and hold harmless all Directors and officers of the Corporation, whether or not their terms shall have expired, of and from any loss, expense, and liability or claimed liability of every kind whatsoever which they may at any time pay or incur as a direct or indirect consequence of any actions taken or omitted or alleged to have been taken or omitted by the Corporation, by other Directors or officers or by themselves as such Directors and officers, excepting only such as may be paid or incurred in relation to matters as to which they, respectively, shall be adjudged by action, suit or proceeding to be liable for negligence or misconduct in the performance of their duties for the Corporation. Such indemnification shall be cumulative and not exclusive of any other rights to which the Directors or officers may be entitled under any bylaws, agreements, corporate actions or otherwise

ARTICLE XI LIABILITY OF DIRECTORS

To the fullest extent that the Alabama Nonprofit Corporation Code, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, no director of the Association shall be personally liable to the Association or its members for monetary damages for breach of duty of care or other duty as a director. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the Association for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal. Any repeal or modification of this Article shall be prospective only, and shall not adversely affect any limitation on the personal liability of a director of the Association with reference to any event or events preceding or state of facts existing at the time of such repeal or modification

ARTICLE XII BYLAWS

The initial Board of Directors has adopted Bylaws, in the form attached as Exhibit "B"

ARTICLE XIII NON-DIVERSION OF ASSETS

The Corporation shall not have or issue shares of stock. No dividend shall be paid and no part of the income of the Corporation shall be distributed to its Members, Directors or officers as such. The Corporation may reimburse any party for any reasonable expenses incurred on behalf of the Corporation or in the carrying on of its business. The Corporation may, pursuant to approval by the Board of Directors, pay compensation in a reasonable amount to its officers, agents or employees for services rendered.

**ARTICLE XLV
POWERS AND LIMITATIONS**

In addition to all the lawful powers expressly or impliedly derived by the Corporation from these Articles, the Corporation and its officers and Directors shall have all such powers as are provided under and by the Alabama Non-Profit Corporation Act (excepting the powers stated in subsections (6) and (13) of Code, Title 10, Section 10-3A-12), and, such other rights and powers consistent with the purposes and limitations of the Corporation as shall be conferred by all other laws and regulations. However, notwithstanding anything to the contrary stated or implied in these Articles or permitted by applicable laws, the Corporation shall at all times be operated exclusively for fraternal, social, recreational and other non-profitable purposes, and no part of the net earnings of same may inure to the benefit of any member. Matters not covered by the provisions of these Articles, or the Bylaws, or the Alabama Non-Profit Corporation Act or other laws shall be governed by any applicable rules of Roberts Rules of Order.

**ARTICLE XV
DISSOLUTION**

In the event of the dissolution of the Corporation and the discontinuance of its functions, the assets shall be disposed of as required by Code, Title 10, Section 10-3A-141.

IN WITNESS WHEREOF AND IN CERTIFICATION OF WHICH, the undersigned has hereunto set his hand effective the 11th day of November, 2009.

**PHOENIX REAL ESTATE FUND I, LLC
A Delaware Limited Liability Company,
as Assignee to
WILKINS CREEK, LLC.,
A Delaware Limited Liability Company**

By **SKYE WELDENFIELD FUND
MANAGER, LLC**
As its Managing Member

By William G Sanders, Jr.
William G Sanders, Jr.
Managing Director