

SECRETARY OF STATE OF ARIZONA

ARIZONA COMMISSION FOR THE STATE OF ARIZONA

AMENDED AND RESTATED

MAY 19 4 14 PM '92

ARTICLES OF INCORPORATION

MAY 1 4 43 PM '92

OF

Esther Thomas
5-22-92

AVIARA HOMEOWNERS ASSOCIATION

APPROVED
DATE
TERM
DATE

178102-1

(FORMERLY, THE TOWNES AT MOUNTAINVIEW RANCH HOMEOWNERS ASSOCIATION)

The undersigned, for the purpose of amending and restating the Articles of Incorporation of a non-profit corporation under A.R.S. §10-1002, et seq., do hereby adopt the following:

ARTICLE I

The name of this corporation shall be AVIARA HOMEOWNERS ASSOCIATION. No action or proceeding brought by or against the corporation under its former name shall abate by reason of the name change from The Townes at Mountainview Ranch Homeowners Association to Aviara Homeowners Association.

ARTICLE II

The incorporators of the corporation are those persons who executed the Original Articles of Incorporation filed with the Arizona Corporation Commission on or around June 15, 1986 ("Original Articles").

ARTICLE III

The purpose for which the corporation is organized is to act as a tax-exempt homeowners association (the "Association") in accordance with Section 528 of the Internal Revenue Code, as the same may be amended from time to time, or if the corporation so elects, pursuant to Section 501(c)(4) of the Internal Revenue Code, as the same may be amended from time to time, and as such, shall serve as a homeowners association for the Owners of Townhome Lots and Single Family Lots in Aviara, as more fully set forth in the Declaration of Covenants, Conditions and Restrictions for Aviara (formerly, The Townes at Mountainview Ranch) ("Declaration"), recorded in the Office of the County Recorder of Maricopa County, Arizona. In furtherance of, and in order to accomplish the foregoing purposes, the Association may transact any and all lawful business for which non-profit corporations may be incorporated under the laws of the State of Arizona, as they may be amended from time to time.

ARTICLE IV

The Association shall have all of those powers provided by law for non-profit corporations, including those set forth in the Arizona Revised Statutes, as the same may be amended from time to time, and all of those powers necessary or convenient to effect the Association's purposes as set forth above, including, but not limited to, the power to exercise all of the rights and privileges and perform all duties and obligations of the Association, as set forth in the Declaration, as the same may be amended from time to time as provided therein.

Without limiting the generality of the foregoing, this Association shall have the powers to:

(a) Borrow money and, only with the assent (by vote or written consent) of two-thirds (2/3) of the Members, as defined in the Declaration, mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed on debts incurred;

(b) Dedicate, sell or transfer all or any part of the Common Areas to any public agency, authority or utility company for such purposes and subject to such conditions as may be agreed to by the Members, with no such dedication, sale or transfer being effective unless an instrument has been signed by two-thirds (2/3) of the Members agreeing to such dedication, sale or transfer; and

(c) Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes provided that any merger or consolidation shall have the assent by vote or written consent of two-thirds (2/3) of the Members.

ARTICLE V

Every Person or entity who is a record Owner of any Lot shall be a Member of the Association, subject to and in accordance with the Declaration. The foregoing is not intended to include Persons or entities who hold an interest merely as security for the performance of an obligation.

ARTICLE VI

The corporation shall have two classes of voting membership as provided in the Declaration.

ARTICLE VII

The affairs of the Association shall be conducted by an initial Board of three (3) directors and such officers as the directors may elect and appoint. Each director shall be a Member

or the spouse of a Member or an agent of Declarant (while Declarant remains a Lot Owner). If a Member is a corporation, partnership or trust, a director may be an officer, authorized agent, partner or beneficiary of such Member. If a director shall cease to meet such qualifications during his term he will thereupon cease to be a director, and his place on the Board shall be deemed vacant. The initial Board of Directors of the Association were:

Steve Seymoure
1440 South Priest Road
Tempe, Arizona 85282

Cindy Dalhover
1440 South Priest Road
Tempe, Arizona 85282

Shirley J. McDonald
1440 South Priest Road
Tempe, Arizona 85282

The names and addresses of the current Board of Directors are:

James Arneson
2005 West 14th Street
Suite 110
Tempe, Arizona 85281

Ken Krouse
2005 West 14th Street
Suite 110
Tempe, Arizona 85281

Joseph C. Thompson
2005 West 14th Street
Suite 110
Tempe, Arizona 85281

ARTICLE VIII

The private property of the Members, directors and officers of the Association shall be forever exempt from the Association's debts and obligations, except as otherwise provided herein.

ARTICLE IX

Subject and pursuant to the provisions of A.R.S. §10-1005(C) and 10-1029(A)(B), the Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the Bylaws of the Association, and Declarant pursuant to the Declaration and each

of Declarant's directors and officers (collectively "Declarant") against all contractual and other liabilities to others arising out of contracts made by, or other acts of such director(s), officer(s), committee member(s), or Declarant, including but not limited to, judgments paid and satisfied and amounts paid in compromise and settlement, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses, including but not limited to, attorneys' fees reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer, committee member or Declarant may be involved by virtue of such person(s) being or having been such director, officer, committee member of Declarant.

ARTICLE X

The name and address of the current statutory agent of the Association is:

Lynn T. Ziolk, Esq.
Ryley, Carlock & Applewhite
101 North First Avenue
Suite 2600
Phoenix, Arizona 85003-1973

ARTICLE XI

For the purpose of providing necessary funds for carrying out the purposes of the Association, there shall be levied against each Lot and each Member, certain assessments, which shall be determined in accordance with, and shall be due, payable and enforceable in the manner set forth in the Declaration, as the same may be amended from time to time.

ARTICLE XII

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of Members. Upon dissolution, liquidation or winding up of the Association, other than incident to a merger or consolidation, and after providing for the debts and obligations of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization devoted to such similar purposes.

ARTICLE XIII

Amendment of these Articles shall require seventy-five percent (75%) of the total voting power of the Association, provided, however, that so long as any Class B membership remains outstanding, the Veterans Administration shall have consented in writing to any change, modification or amendment, and provided further, that fifty-one percent (51%) of all Eligible Mortgage Holders (as such term is defined in the Declaration) shall have consented to any change, modification or amendment of the matters set forth in Paragraph 21 of the Declaration.

XIV

The Original Articles are amended and restated in their entirety by these Amended and Restated Articles of Incorporation, which, pursuant to A.R.S. § 10-1037, have been approved by act of the Board of Directors. These Amended and Restated Articles of Incorporation correctly set forth the entire current articles of incorporation of the Association and supersede, in their entirety, the Original Articles and all prior amendments.

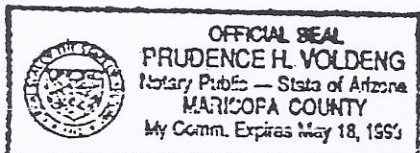
The undersigned have executed these Amended and Restated Articles of Incorporation as of April 30, 1992.

*These Amended and Restated Articles of Incorporation were approved by the unanimous written consent of the Board of Directors dated April 30, 1992.

[Signature]
President
[Signature]
Secretary/Treasurer
[Signature]
Vice President

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this 30th day of April, 1992, by a member of the Board of Directors of Avilara Homeowners Association, an Arizona non-profit corporation.



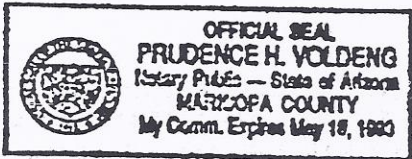
My Commission Expires:

May 18, 1993

Kathleen P. Voldeng
Notary Public
nee: Prudence Voldeng

STATE OF ARIZONA)
) SS
County of Maricopa)

The foregoing instrument was acknowledged before me this 30th day of April, 1992, by a member of the Board of Directors of Aviara Homeowners Association, an Arizona non-profit corporation.



My Commission Expires:

May 18, 1993

Kathleen P. Voldeng
Notary Public
nee: Prudence Voldeng

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