

ARTICLES OF INCORPORATION
OF
INDIAN WELLS GOLF VILLAS HOMEOWNERS ASSOCIATION, INC.
(A Florida Not-For-Profit Corporation)

In order to form a corporation not-for-profit under and in accordance with Chapter 617 of the Florida Statutes, the undersigned hereby incorporates this corporation not-for-profit for the purposes and with the powers hereinafter set forth and to that end these Articles of Incorporation set forth the following:

ARTICLE I

DEFINITIONS

The following words and phrases when used in these Articles shall have the following meanings:

1.1 ASSOCIATION means the Indian Wells Golf Villas Homeowners Association, Inc., a Florida Corporation Not-for-Profit.

1.2 ASSOCIATION EXPENSES means the expense for which the Owners are or may be liable to the Association in accordance with the method of allocation thereof described in the Declaration.

1.3 ARTICLES means these Articles of Incorporation of the Association.

1.4 BOARD OF DIRECTORS means the Board of Directors of the Association.

1.5 BY-LAWS means the By-Laws of the Association.

1.6 INDIAN WELLS GOLF VILLAS or INDIAN WELLS GOLF VILLAS NEIGHBORHOOD means the residential community planned as a neighborhood in the development of Lely Resort, which is to be developed upon the Land and all improvements now or hereafter located thereon and includes the Land and all improvements on any Land submitted to the provisions of the Declaration.

1.7 **COMMON AREAS** means the portion of the Land not included within individual residential Lots, all as more particularly described in the Declaration.

1.8 **COUNTY** means Collier County, Florida.

1.9 **DECLARATION** means the Declaration of Covenants, Restrictions and Easements for Indian Wells Golf Villas Neighborhood recorded amongst the Public Records of the County, and any amendments, supplements or modifications thereto.

1.10 **DEVELOPER** means Verandas Development, a Florida general partnership.

1.11 **DOCUMENTS** means in the aggregate the Master Declaration, the Articles of Incorporation and By-Laws of the Master Association, this Declaration, these Articles, the By-Laws, all Supplements to the Declaration, any Rules and Regulations of the Association, such other documents as are recorded in the Public Records of Collier County, Florida and affect the Land or right of use of the Land, and all of the instruments and documents referred to or incorporated therein or attached thereto as same may be amended from time to time.

1.12 **DWELLING UNIT** means a detached, single family residential Villa located or to be constructed on a Lot within Indian Wells Golf Villas Neighborhood.

1.13 **INSTITUTIONAL MORTGAGEE** means any lending institution or real estate investment trust having a first mortgagee lien upon a Lot, Villa or Home and includes, but is not limited to, any insurance company doing business in Florida and approved by the Commissioner of Insurance of the State of Florida; a Federal or State Savings and Loan Association, Building and Loan Association or bank doing business in the State of Florida and approved by the office of the Comptroller, Division of Banking of the State of Florida; a mortgage banking company licensed in the State of Florida; and "Secondary Mortgage Market Institution" which includes the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and such other secondary mortgage market institution as the Board of Directors shall hereafter approve in writing; and any mortgagee which has loaned money to Developer secured by a mortgage encumbering any portion of the Land.

1.14 **Land** means the real property more particularly described in Exhibit "A" to the Declaration and any property subsequently made subject to the Declaration by means of the Supplemental Declaration.

1.15 **LELY RESORT** means the real property described in Exhibit "A" of the Master Declaration.

1.16 **LOT** means a portion of the Land upon which is or will be located a Villa, the legal description of which is set forth in the deed of conveyance of the Villa.

1.17 **MASTER ASSOCIATION** means the Lely Resort Master Property Owners Association, Inc., a Florida Not-For-Profit Corporation, its successors and assigns.

1.18 MASTER DECLARATION means the Declaration of Covenants, Conditions and Restrictions for Lely resort dated March 13, 1990 and recorded in Official Records Book 1513, Page 835 et seq. of the Public Records of the County and any amendments, supplements and modifications thereto.

1.19 MEMBER means a member of the Association.

1.20 OWNER means the owner or owners of the fee title to a Lot or Dwelling Unit/Villa.

1.21 SINGLE FAMILY OCCUPANCY means occupancy by a single family unit.

1.22 SUPPLEMENT means a recorded Supplement to the Declaration submitting all or a portion of additional Land to the terms and provision of the Declaration.

ARTICLE II

NAME

The name of this corporation shall be INDIAN WELLS GOLF VILLAS HOMEOWNERS ASSOCIATION, INC., ("Association"). The present address of the Association is 950 North Collier Boulevard, Suite 308, Marco Island, Florida 34145.

ARTICLE III

PLAN FOR DEVELOPMENT AND PURPOSE OF ASSOCIATION

3.1 Developer, the Owner of the Land (and such other persons or entities as own the Land if Developer is not the Owner), has or will record the Declaration which provides a plan for development of Indian Wells Golf Villas Neighborhood a planned residential community. The Declaration provides for various Land use covenants and restrictions relative to the Land and that the Association shall own, operate administer, manage, repair and maintain portions of the Land from time to time.

3.2 The Association is formed, therefore, to own, operate, administer, manage, repair and maintain portions of the Land in accordance with the Documents and to assess, collect and pay all expenses necessary or proper to perform its purpose.

ARTICLE IV

POWER

In furtherance of the foregoing purposes, the Association shall have the following powers:

4.1 The Association shall have all of the common law and statutory powers of a Florida Not-For-Profit Corporation.

4.2 The Association shall have all of the powers granted to the Association in the Declaration.

4.3 The Association shall have all of the powers reasonably necessary to implement the purposes of the Association in accordance with the Documents including, but not necessarily limited to the following powers:

- 4.3.1 To make, establish, amend and enforce reasonable rules and regulations governing Falcons Neighborhood.
- 4.3.2 To make, levy, collect and enforce assessments against Owners to provide funds to pay for the expenses of the Association and the administration, management, operation, repair and maintenance of Indian Wells Golf Villas Neighborhood and to use and expend the proceeds of such assessments in the exercise of the powers and duties of the Association.
- 4.3.3 To administer, manage, operate, repair, maintain and replace the improvements and personal property therein in accordance with the Declaration of Indian Wells Golf Villas Neighborhood.
- 4.3.4 To construct and reconstruct improvements located within the common property of or Common Area of Indian Wells Golf Villas Neighborhood in the event of casualty or other loss in accordance with the Declaration.
- 4.3.5 To enforce by legal means the provisions of the Declaration and other Documents.
- 4.3.6 To employ personnel, retain independent contractors and professional personnel and enter into any supply, service, management or other agreements and contracts consistent with the purposes of the Association to provide for administration, management and operation of the Association.
- 4.3.7 To, if so granted, receive title to and own the Common Areas pursuant to the Declaration.

ARTICLE V

MEMBERS

The qualification of Members, the manner of their admission to membership in the Association, the manner of the termination of such membership, the voting rights of Members and the manner of voting by Members shall be as follows:

5.1 Until such time as the first deed of conveyance to an Owner other than Developer ("First Conveyance"), the membership of this Association shall be comprised solely of Developer.

5.2 Upon the First Conveyance, each and every Owner of a Lot within the Land, including Developer as to Lots owned by Developer, shall be Members and exercise all of the rights and privileges of Members, as set forth in the Documents.

5.3 Membership in the Association for Owners other than Developer shall be established by the acquisition of ownership of fee title to a Lot as evidenced by the recording of an instrument of conveyance amongst the Public Records of the County. Developer shall be a Member for all Lots owned by it. Where title to a Lot is acquired by conveyance from a party other than Developer by means of sale, gift, inheritance, devise, judicial decree or otherwise, the person, persons or entity thereby acquiring such Lot shall not be a Member unless or until such Owner shall deliver a copy of a deed or other instrument of acquisition of title to the Association, or until the Association is otherwise made aware of such transfer in a verifiable manner.

5.4 No Member may assign, hypothecate or transfer in any manner his membership in the Association except as an appurtenance to transfer of ownership and title to his Lot.

5.5 Each Member, with the exception of the Developer, shall be entitled to one (1) vote for each Lot owned by the Member which is subject to these Covenants.

Prior to the turn-over event, which is described in the Declaration, the Developer shall have a total number of votes equal to the cumulative number of votes held by all other Members, plus (1).

Any Member of the Association who conveys or loses title to a Lot shall lose all rights and privileges of a Member of the Association resulting from ownership of such Lot.

5.6 If there is more than one (1) Member with respect to a Lot as a result of the fee interest in such Lot being held by more than one person, such Members collectively shall be entitled to only one (1) vote. The vote of the Owners of a Lot owned by a corporation or other legal entity shall be cast by a properly designed officer, partner or principal of the respective legal entity.

5.7 Whenever any Lot is owned by a husband and wife the following provisions shall govern their right to vote:

5.7.1 Where both are present at a meeting, each shall be regarded as the agent and proxy of the other for purposes of casting the vote for each Lot owned by them. In the event they are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at the meeting.

5.7.2 Where only one (1) spouse is present at a meeting, the spouse present may cast the Lot vote without establishing the concurrence of the other spouse, absent any prior written notice to the contrary to the Association by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Lot shall not be considered.

5.7.3 Where neither spouse is present, the person designated in a proxy signed by either spouse may cast the Lot vote, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different proxy by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different proxy by the other spouse, the vote of said Lot shall not be considered.

5.8 In the event that certain Members' properties have concerns which do not apply to the Members as a whole, the Board of Directors may divide the membership in the Association into classes so that only the Members of the class may vote upon matters peculiar to the class.

5.9 With respect to voting, the following provisions will prevail:

5.9.1 Either the membership as a whole shall vote or the Class Members shall vote, which determination shall be made in accordance with Subparagraphs 5.9.2 and 5.9.3 immediately below. In any event, however, each Lot shall be entitled to only one (1) vote, which vote shall be exercised and cast in accordance with the Documents.

5.9.2 In matters that require a vote, voting shall take place as follows:

(A) Matters substantially pertaining to a particular class is established by the Board of Directors, shall be voted upon only by the Class Members and the result of the voting shall be determined by majority vote of the Class Members at any meeting having a proper quorum (as determined in accordance with the By-Laws).

5.9.2 (B) Matters substantially pertaining to the Association or to Indian Wells Golf Villas Neighborhood as a whole shall be voted on by the membership as a whole and the result of the voting shall be determined by majority vote, unless otherwise specified in the Declaration, of the membership as whole in attendance at any meeting having a quorum (as determined in accordance with the By-Laws).

5.9.3 Any decision as to whether a matter substantially pertains to a particular class for purpose of Class Member voting or to the

Association as a whole for membership voting shall be determined solely by the Board of Directors, but any matter material to the Common Areas or the Declaration as it relates to all Owners cannot be allocated by the Board of Directors to other than the full membership.

- 5.9.4 Notwithstanding any other provision hereof, the Members and the Class Members are prohibited from taking any action prior to the notice of the "Turnover Event" (as defined in the Declaration) which would increase the Developer's obligation under the "Guaranteed Assessment" (as defined in the Declaration) unless Developer shall consent, in writing, thereto.
- 5.9.5 The membership shall be entitled to elect the Board of Directors as provided in Article X of these Articles.

ARTICLE VI

TERM

The term for which this Association is to exist shall be perpetual.

ARTICLE VII

INCORPORATOR

The name and address of the Incorporator to these Articles is as follows:

<u>NAME</u>	<u>ADDRESS</u>
Joseph D. Boff	950 North Collier Boulevard, Suite 308 Marco Island, Florida 34145

ARTICLE VIII

OFFICERS

8.1 The affairs of the Association shall be managed by a President, one or more Vice Presidents, a Secretary and a Treasurer, and, if elected by the Board of Directors, an Assistant Secretary, an Assistant Treasurer and such other officers and assistant officers as the Board of Directors designates.

8.2 The Board of Directors shall elect the President, a Vice President, a Secretary, and a Treasurer and as many other Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall from time to time determine appropriate. Such officers shall be elected annually at the first meeting of the Board of Directors following the "Annual Meeting" (as described in the By-Laws); provided, however, such officers may be

removed and other persons may be elected by the Board of Directors as such officers in the manner provided in the By-Laws. The President shall be a Director of the Association, but no other officer need be a Director.

ARTICLE IX

FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

<u>OFFICE</u>	<u>NAME</u>
President:	Joseph D. Boff
Vice President and Secretary:	Art Vanderlaan
Treasurer:	Vito Viviano

ARTICLE X

BOARD OF DIRECTORS

10.1 The number of Directors on the first Board of Directors ("First Board") shall be three (3). The number of Directors thereafter shall be determined by the By-Laws.

10.2 The names and addresses of the persons who are to serve as Directors on the First Board are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Joseph D. Boff	950 North Collier Boulevard, Suite 308 Marco Island, Florida 34145
Arthur Vanderlaan	RR#1, Port Colborne Ontario, Canada L3K 5V3
Vito Viviano	993 Lakeshore Drive Grosse Pointe, MI 48236

Developer shall have the right to remove, appoint, designate, and elect all of the Directors to serve on the Board of Directors until the Turnover Event, as defined in the Declaration. The First Board of Directors shall serve until the Turnover Event or until removed or replaced by Developer in accordance with the By-Laws.

10.3 Upon the occurrence of the Turnover Event, the Owners other than the Developer ("Purchase Members") shall be entitled to elect two (2) Members of the Board of Directors, and Developer shall continue to appoint one (1) Director until such time as Developer either:

- 10.3.1 No longer owns any Lots or other real property within Indian Wells Golf Villas Neighborhood or
- 10.3.2 Elects to relinquish his right to appoint such Director ("Developer's Resignation Event"). Upon the Developer's Resignation Event, the Directors elected by other Members shall elect a successor Director to fill the vacancy caused by the resignation or removal of Developer's designated Director. This successor Director shall serve until the next Annual Member's Meeting and until his successor is elected and qualified.

10.4 At each Annual Members' Meeting held subsequent to the year in which the Developer no longer has a right to appoint a Director, all of the Directors shall be elected by the Members.

10.5 Upon the resignation of a Director who has been designated by Developer and upon the resignation of an officer of the Association who has been elected by a Board of Directors controlled by the Developer, the Association shall remise, release, acquit, satisfy and forever discharge such officer or Director of action, suits, debts, dues, sums of money, accounts, recordings, bonds bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Association or Purchaser Members had, now have or which any personal representative, successor, heir or assign of the Association or Purchaser Members hereafter can, shall or may have against said officer or Director for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of such resignation, except for such Director's or officer's willful misconduct or gross negligence.

10.6 Whenever an act requires Association approval, such approval by the Association's Board of Directors shall constitute the Association's approval, unless the approval provision specifies that the Association's approval is to be obtained in some other manner.

ARTICLE XI

BY-LAWS

The By-Laws of the Association shall be adopted by the First Board of Directors, and thereafter may be altered, amended or rescinded in the manner provided in the By-Laws.

ARTICLE XII

INDEMNIFICATION

Each and every Director and officer of the Association shall be indemnified by the Association against all costs, expenses and liabilities, including counsel fees at all trial and appellate levels, reasonably incurred by or imposed upon him in connection with any proceeding, litigation or settlement in which he becomes involved by reason of his being or having been a Director or officer of the Association, and the foregoing provision for indemnification shall apply whether or not such a person is a Director or officer at the time such cost, expense or liability is incurred. In the event a Director or officer admits or is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, the indemnification provided in this Article shall be in addition to and not exclusive of any and all right of indemnification to which a Director or officer of the Association may be entitled under statute or common law.

ARTICLE XIII

AMENDMENT

13.1 Prior to the First Conveyance (as defined in Paragraph 5.1 hereof), these Articles may be amended by an instrument in writing signed by Developer and filed in the office of the Secretary of State of the State of Florida.

13.2 After the First Conveyance, these Articles may be amended as provided by Florida Statute.

13.3 Notwithstanding any provision of this Article XIII to the contrary, these Articles shall not be amended in any manner which shall bridge, amend or alter the rights of an Institutional Mortgagee or the right of Developer to designate and elect Directors as provided in these Articles without the prior written consent to such amendment by such Institutional Mortgagee or Developer, as the case may be.

13.4 Notwithstanding any provision of this Article XIII to the contrary, these Articles shall not be amended in any manner which shall amend, modify or affect any provisions, terms, conditions, rights and obligations set forth in the Declaration nor which amend, modify or affect this Article XIII.

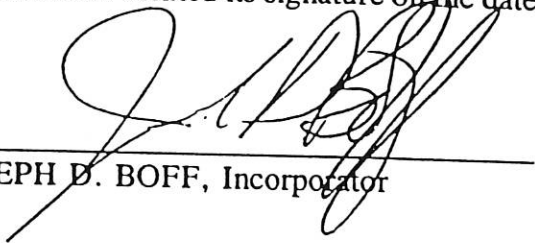
ARTICLE XIV

REGISTERED OFFICE AND REGISTERED AGENT

The principal address in Florida and the registered office of the Association is 950 North Collier Boulevard, Suite 308, Marco Island, Florida 34145 and the initial registered agent of the Association at such address is Joseph D. Boff.

IN WITNESS WHEREOF, the Incorporator has hereunto affixed its signature on the date set forth below.

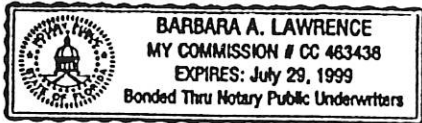
Date: September 11, 1996



JOSEPH D. BOFF, Incorporator

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 11th day of September, 1996 by JOSEPH D. BOFF as Incorporator and who is personally known to me and did not take an oath.





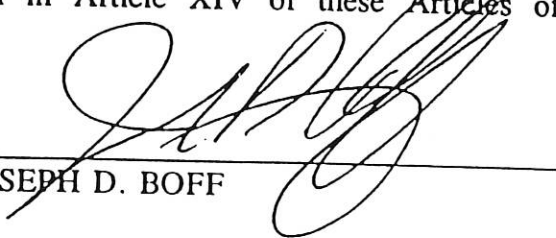
Notary Public

(SEAL)

Printed Notary Name
My Commission Expires:

ACCEPTANCE OF REGISTERED AGENT

The undersigned hereby accepts the designation of Registered Agent of Indian Wells Golf Villas Homeowners Association, Inc. as set forth in Article XIV of these Articles of Incorporation.



JOSEPH D. BOFF