

EXHIBIT "H"

(Common Area Bylaws)

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

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AMENDED AND RESTATED BYLAWS

OF

THE PENINSULA ON LAKE AUSTIN COMMON AREA COUNCIL OF OWNERS, INC.

(A Texas Nonprofit Corporation)

ARTICLE 1

INTRODUCTION

1.1. PURPOSE OF BYLAWS. These bylaws provide for the governance of The Peninsula on Lake Austin Common Area Council of Owners, Inc., which relates to the General Common Elements for The Peninsula on Lake Austin condominium project ("Project") located in the City of Austin, Travis County, Texas, subject to and more fully described in the Amended and Restated Enabling Declaration for Establishment of a Condominium for The Peninsula on Lake Austin Phase One and Phase Two (formerly St. Tropez Lakehomes) ("**Restated Declaration**") recorded in the Real Property Records of Travis County, Texas, which Restated Declaration amended and restated that certain Enabling Declaration for Establishment of a Condominium for St. Tropez Lakehomes ("**Original Declaration**") recorded in Volume 9671, Page 892 of the Real Property Records of Travis County, Texas, which Original Declaration was amended by that certain Agreement Regarding Assignment of Developer Rights and Acknowledgement of Authority and Agreement and Amendment to Declaration ("**First Amendment**") recorded in Volume 12163, Page 618 of the Real Property Records of Travis County, Texas, (the Original Declaration, the First Amendment and the Restated Declaration are hereinafter sometimes collectively referred to as the "**Declaration**"), and as may hereafter be further amended. The original bylaws of The Peninsula on Lake Austin Council of Owners, Inc. (which entity was originally contemplated by the Original Declaration, but was never formed) which were attached to the Original Declaration are hereby amended in their entirety and are superseded and replaced by these Amended and Restated Bylaws, as same relate to the units in the Project.

1.2. PARTIES TO BYLAWS. All present or future owners of any unit in the Project and all other persons who use or occupy any unit in the Project in any manner are subject to these bylaws and the other governing documents as defined below. The mere acquisition or occupancy of a unit in the Project will signify that these bylaws are accepted, ratified, and will be strictly followed.

1.3. DEFINITIONS. Words and phrases defined in the Declaration shall have the same meanings when used in these Bylaws. Unless defined otherwise in the Declaration or in these Bylaws, words and phrases used in these bylaws shall have the same meaning

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as defined in Section 82.003 of the Texas Uniform Condominium Act ("TUCA"). The following words and phrases shall have specified meanings when used in these Bylaws and shall supplement TUCA Section 82.003.

a. "Act" means the Texas Non-Profit Corporation Act, codified as Article 1396-2 et seq. of the Texas Business and Commerce Code.

b. "Common Area Association" means The Peninsula on Lake Austin Common Area Council of Owners, Inc., a Texas non-profit corporation, reorganized pursuant to Section 82.101 of TUCA.

c. "Declarant" means T/L Lake Austin Partnership, a Texas general partnership, and any person or entity succeeding to the Declarant's right pursuant to Section 82.104 of TUCA.

d. "Director" means a director of the Common Area Association.

e. "Governing Documents" means, collectively, the Declaration, these Bylaws, the Articles of Incorporation of the Common Area Association, and the Community Rules of the Common Area Association, as any of these may be amended from time to time.

f. "Majority" means more than 50 percent.

g. "Member" means a member of the Common Area Association, each member being a unit owner of one of the units in the Project, unless the context indicates that member means a member of the board of directors or a member of the Common Area Association.

h. "Officer" means an officer of the Common Area Association, which shall include a "President," a "Secretary," a "Treasurer," and one or more "Vice-Presidents".

i. "Resident" means the occupant of one of the units in the Project, whether or not such occupant is an owner of one of the units in the Project.

j. "TUCA" means the Texas Uniform Condominium Act codified as chapter 82 of the Texas Property Code.

1.4. NONPROFIT PURPOSE. The Common Area Association is not organized for profit.

1.5. COMPENSATION. A Director, Officer, Member, or Resident shall not be entitled to receive any pecuniary profit from the operation of the Common Area Association, and no funds or assets of

the Common Area Association may be paid as a salary or as compensation to, or be distributed to, or inure to the benefit of a Director, Officer, Member, or Resident; provided, however that pursuant to the Texas Non-profit Corporation Act Section 1396-2.24.A. of the Act:

a. that reasonable compensation may be paid to a Director, Officer, Member, or Resident for services rendered to the Common Area Association;

b. that a Director, Officer, Member, owner or Resident may, from time to time, be reimbursed for his actual and reasonable expenses incurred on behalf of the Common Area Association in connection with the administration of the affairs of the Common Area Association, excluding travel expenses between California and Texas, provided such expense has been approved or ratified by the board; and

c. that this provision does not apply to distributions to the owners of units in the Project required by the Declaration or TUCA.

1.6. GENERAL POWERS AND DUTIES. The Common Area Association, acting through the board, shall have the powers and duties necessary for the administration of the affairs of the Common Area Association and for the operation and maintenance of the condominium as may be required or permitted by the Governing Documents and the law of the State of Texas. The Common Area Association may do any and all things that are lawful and which are necessary, proper, or desirable to operate for the best interests of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents.

ARTICLE 2

BOARD OF DIRECTORS

2.1. NUMBER AND TERM OF OFFICE. The Board shall consist of three persons. Except in the case of a delinquency as set forth in Section 2.2.3, a vacancy as set forth in Section 2.4 or removal as set forth in Section 2.5, one board Member shall be elected by the owners of the Phase One Units and two board Members shall be elected by the owners of the Phase Two Units. Upon election, each Director shall serve a term of one year. A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed. The number of Directors may be changed by amendment of these bylaws, but shall not be less than three.

2.2. QUALIFICATION. No person shall be eligible for election or appointment to the board unless such person is a Member.

2.2.1. Entity Member. If a unit in the Project is owned by a legal entity, such as a partnership or corporation, any Resident officer, Resident partner, or Resident employee of that entity member shall be eligible to serve as a Director and shall be deemed to be a Member for the purposes of this section. If the relationship between the entity member and the Director representing it terminates, that Directorship shall be deemed vacant.

2.2.2. Co-Owners. Co-owners of a single unit in the Project may not serve on the board at the same time. Co-owners of more than one unit in the Project may serve on the board at the same time, provided the number of co-owners serving at one time does not exceed the number of units in the Project they co-own.

2.2.3. Delinquency. No Member may be elected or appointed as a Director if any assessment against the Member or his unit in the Project is delinquent at the time of the election or appointment. No Member may continue to serve as a Director if any assessment against the Member or his unit in the Project is more than 45 days' delinquent.

2.3. ELECTION. Directors shall be elected by the Members, with one director being elected by the owners of the Phase One Units and two directors being elected by the owners of the Phase Two Units. The election of Directors shall be conducted at the annual meeting of the Common Area Association, at any special meeting called for that purpose, or by mail, facsimile transmission, or a combination of mail and facsimile transmission.

2.4. VACANCIES. Vacancies on the board caused by any reason shall be filled by a vote of the Majority of the remaining Directors, even though less than a quorum, at any meeting of the board. Each Director so elected shall serve out the remaining term of his predecessor.

2.5. REMOVAL OF DIRECTORS. At any annual meeting or special meeting of the Common Area Association, any one or more of the Directors may be removed with or without cause by Members representing at least two-thirds of the votes present in person or by proxy at such meeting, and a successor shall then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting. A Director who is delinquent in the payment of assessments for more than 45 days may be removed by action of the other Directors who then shall fill the vacancy as provided in Section 2.4. above.

2.6. MEETINGS OF THE BOARD.

2.6.1. Organizational Meeting of the Board. Within 30 days after the issuance of the Common Area Association's certificate of incorporation, the initial Directors shall convene an organizational meeting for the purpose of electing Officers. The time and place of such meeting shall be determined by either the incorporator or any two of the initial Directors by delivery of at least 3 days prior written notice to the other Directors of the time and place of the meeting, provided, such meeting occurs in Travis County, Texas.

2.6.2. Regular Meetings of the Board. Regular meetings of the board may be held at such time and place in Travis County, Texas, as shall be determined, from time to time, by the board, but at least one such meeting shall be held each calendar quarter. Notice of regular meetings of the board shall be given to each Director in writing at least five (5) days prior to the date of such meeting; provided such written notices may be sent by facsimile.

2.6.3. Special Meetings of the Board. Special meetings of the board may be called by the president or, if he is absent or refuses to act, the secretary, or by any two Directors. At least five (5) days notice shall be given to each Director in writing, which notice shall state the place in Travis County, Texas where the meeting shall occur, the time, and purpose of such meeting; provided, such written notices may be sent by facsimile.

2.6.4. Conduct of Meetings. The President shall preside over all meetings of the board and the secretary shall keep, or cause to be kept, a record of all resolutions adopted by the board and a record of all transactions and proceedings occurring at such meetings. When not in conflict with the law or the Governing Documents, the then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the board.

2.6.5. Quorum. At all meetings of the board, a Majority of Directors shall constitute a quorum for the transaction of business, and the acts of the Majority of the Directors present at a meeting at which a quorum is present shall be the acts of the board. A Member shall be considered present if he is present by conference telephone or similar communications equipment. If less than a quorum is

present at any meeting from time to time, either in person or by telephone, the Majority of those present may adjourn the meeting from time to time. At any such reconvened meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

2.6.6. Open Meetings. Regular and special meetings of the board shall be open to Members of the Common Area Association; provided that Members who are not Directors may not participate in any deliberations or discussions unless the board expressly so authorizes at the meeting. The board may adjourn any meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Common Area Association is or may become involved, and orders of business of a similar or sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

2.6.7. Telephone Meetings. Members of the board of the Common Area Association may participate in and hold meetings of the board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear and speak to each other. Participation in such meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

2.6.8. Action Without a Meeting. Any action required or permitted to be taken by the board at a meeting may be taken without a meeting, if all of the Directors individually or collectively consent in writing to such action. The written consent shall be filed with the minutes of the board. Action by written consent shall have the same forth and effect as a unanimous vote.

2.7. LIABILITIES AND STANDARD OF CARE. In performing their duties, the Directors are required to exercise certain standards of care and are subject to certain liabilities, including but not limited to the following provisions of the laws of the State of Texas:

Act 1396-2.25... prohibiting loans to Directors;
Act 1396-2.26... voting for improper distribution of
assets under certain circumstances;
Act 1396-2.28... setting forth Director's general
standards of care;
Act 1396-2.29... circumstances under which investment
authority may be delegated;
Act 1396-2.30... pertaining to contracts between a
Director and the Common Area Association;
TUCA §82.103.(a)... action must be reasonable;
Director must exercise good faith
judgement; Director is a
fiduciary;
TUCA §82.103.(f)... breach of fiduciary duty,
improper benefit, acting in bad
faith.

2.8. POWERS AND DUTIES. The board shall have all powers and duties necessary for the administration of the Common Area Association and for the operation and maintenance of the units in the Project. The board may do all such acts and things except those which, by law or the Governing Documents are reserved to the Members and may not be delegated to the board. Without prejudice to the general and specific powers and duties set forth in laws or the governing documents, or such powers and duties as may hereafter be imposed on the board by resolution of the Common Area Association, the powers and duties of the board shall include, but shall not be limited to, the following:

2.8.1. Manager. The board may employ a manager or managing agent for the Common Area Association, at a compensation established by the board, to perform all ministerial duties and services authorized by the board, including the following:

a. Fiscal Management.

(1) Prepare an annual operating budget detailed to reflect expected operations for each month, reserves, and contingencies to cover repairs, replacements and betterments to the general common elements specifically related to the units in the Project, but excluding the unit boundaries of each unit and the limited common elements related to each such unit in the Project as set forth in Section 82.052 of TUCA. As set forth in Declaration, each unit owner in the Project is responsible for the maintenance and repair of his unit, including the limited common elements related to such unit. The budget is established to show expected recurring

receipts and operating disbursements. It is further used for comparison with actual monthly income and expenditures;

(2) Prepare monthly or quarterly operating and cash position statements;

(3) Collect monthly Assessments and periodic Special Assessments; deposit them in checking, savings or other accounts on behalf of the Common Area Association and maintain comprehensive records thereof.

(4) Mail notices of delinquency to any Owner in arrears, and exert reasonable efforts to collect delinquent accounts;

(5) Examine all expense invoices for accuracy and pay all bills in accordance with the terms of the property management agreement; and

(6) Prepare a year-end statement of operations.

b. Physical Management.

(1) Assume full responsibility for maintenance and control of general common elements specifically related to the units in the Project, but excluding the unit boundaries of each unit and the limited common elements related to each such unit in the Project as set forth in Section 82.052 of TUCA, improvements and equipment. Maintain the general common elements specifically related to the units in the Project (subject to the limitations set forth in the Declaration) in constant repair to reflect Member pride and to insure high property values in accordance with the provisions of the operating budget, as approved by the Board of Directors;

(2) Compile, assemble and analyze data, and prepare specifications and calls for bids for major improvement projects as needed. Analyze and compare bids, issue contracts and coordinate the work on improvement projects; maintain close and constant inspection of such work to insure that such work is performed according to specifications; and

(3) Perform any other projects with diligence and economy in the best interests of the Common Area Association.

c. Administrative Management.

(1) Inspect contractual services for satisfactory performance. Prepare any necessary compliance letters to vendors.

(2) Obtain and analyze bids for insurance coverage specified in the Declaration and these Bylaws or recommend additional coverage. Prepare claims when required and follow up on payment; act as a representative of the Board of Directors in negotiating settlement.

2.8.2. Fines. The board may levy fines for each day or occurrence that a violation of the Governing Documents persists after notice and hearing as provided in the Community Rules, provided the amount of the fine does not exceed the amount reasonably necessary to ensure compliance with the Governing Documents.

2.8.3. Delinquent Accounts. The board may establish, levy, and collect reasonable late charges for Members' delinquent accounts. The board may also establish a rate of interest to be charged on Members' delinquent accounts, provided the rate of interest does not exceed 18 percent or the maximum rate permitted by the laws of the State of Texas, whichever is smaller.

2.8.4. Fidelity Bonds. The board shall require that all Officers, agents, and employees of the Common Area Association handling or responsible for the Common Area Association funds shall furnish adequate fidelity bonds. The premiums on such bonds may be a common expense of the Common Area Association.

2.8.5. Ex-Officio Directors. The board may, from time to time, designate one or more persons as ex-officio Members of the board, pursuant to Article 1396-2.14. F. of the Act. An ex-officio Member is entitled to notice of and may attend board meetings, but shall have no voting power.

2.8.6. Assessments. The board shall fix, determine, assess, and collect, after approval by the Corporation, annual assessments from the Members, and

any special assessments authorized by the Members of the Corporation, which assessments shall be paid by the Members in monthly installments and shall consist of each Member's prorata share of the one-twelfth (1/12th) of the total annual estimated budget for each year, plus reasonable reserves; provided, however, no special assessments shall be permitted during the Declarant Administration Period in the Restated Declaration. The estimated budget for the Common Elements specifically related to the units in the Project shall be prepared annually by the Board and shall take into account the estimated common expenses for the year, including but not limited to, salaries, wages, ad valorem taxes, other than those on the individual units, payroll, taxes, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance (if applicable), vehicles, bonds, management fees, and other expenses. Any surplus or deficit with regard to previous budget shall also be considered. The Board shall also establish a reserve for replacement of the Common Elements specifically related to the units in the Project. Copies of the estimated annual budgets shall be furnished to each Unit owner not later than thirty (30) days after the beginning of each calendar year.

2.8.7. Other Reserved Powers. The Common Area Association, acting through its board shall have the powers set forth in TUCA §82.102 and §82.105.

ARTICLE 3

OFFICERS

3.1. DESIGNATION. The principal Officers of the Common Area Association shall be the president, the secretary, and the treasurer. The board may appoint one or more vice-presidents and such other Officers and assistant Officers as it deems necessary. The president and secretary shall be Directors. Other Officers may, but need not, be Members or Directors. Any two offices may be held by the same person, except the offices of president and secretary. If an Officer is absent or unable to act, the board may appoint a Director to perform the duties of that Officer and to act in place of that Officer, on an interim basis.

3.2. ELECTION OF OFFICERS. The Officers shall be elected no less than annually by the Directors at the organizational meeting of the board and shall hold office at the pleasure of the board for a term not to exceed 3 years in any event. Except for resignation or removal, Officers shall hold office until their respective successors have been designated by the board.

3.3. REMOVAL AND RESIGNATION OF OFFICERS. A Majority of Directors may remove any Officer, with or without cause, at any regular meeting of the board or at any special meeting of the board called for that purpose. A successor may be elected at any regular or special meeting of the board called for that purpose. An Officer may resign at any time by giving written notice to the board. Unless the notice of resignation states otherwise, it is effective when received by the board and does not require acceptance by the board. The resignation or removal of an Officer who is also a Director does not constitute resignation or removal from the board.

3.4. STANDARD OF CARE. In performing their duties, the Officers are required to exercise the standards of care provided by:

TUCA §82.103 (a).. must act in good faith;
TUCA §82.103 (f).. breach of fiduciary duty...improper benefit... intentional misconduct;
Act 1396-2.20.D.... reliance or information furnished by others.

3.5. DESCRIPTION OF PRINCIPAL OFFICES.

3.5.1. President. As the chief executive officer of the Common Area Association, the president shall: (i) preside at all meetings of the Common Area Association and of the board; (ii) have all the general powers and duties which are usually vested in the office of president of a corporation organized under the laws of the State of Texas; (iii) have general supervision, direction, and control of the business of the Common Area Association, subject to the control of the board; and (iv) see that all orders and resolutions of the board are carried into effect.

3.5.2. Secretary. The secretary shall: (i) keep the minute book and the minutes of all meetings of the board and of the Common Area Association; (ii) have charge of such books, papers, and records as the board may direct; (iii) maintain a record of the names and addresses of the Members for the mailing of notices; and (iv) in general, perform all duties incident to the office of secretary.

3.5.3. Treasurer. The treasurer shall: (i) be responsible for Common Area Association funds; (ii) keep full and accurate financial records and books of account showing all receipts and disbursements; (iii) prepare all required financial data and tax returns; (iv) deposit all monies or other valuable effects in the name of the Common Area Association in such depositories as may from time to time be designated by the board; (v) prepare the annual and supplemental budgets of the Common Area Association; (vi)

review the accounts of the managing agent on a monthly basis in the event such managing agent is responsible for collecting and disbursing Common Area Association funds; and (vii) perform all the duties incident to the office of treasurer.

3.6. AUTHORIZED AGENTS. Except when the Governing Documents require execution of certain instruments by certain individuals, the board may authorize any person to execute instruments on behalf of the Common Area Association. In the absence of board designation, the president and the secretary shall be the only persons authorized to execute instruments on behalf of the Common Area Association.

ARTICLE 4

Intentionally Omitted

ARTICLE 5

MEETINGS OF THE COMMON AREA ASSOCIATION

5.1. ANNUAL MEETING. An annual meeting of the Common Area Association shall be held during the month of March of each year. Unless the notice of the annual meeting provides otherwise, the annual meeting shall occur at the Common Area Association's registered office. At the annual meetings the Members shall elect Directors in accordance with these bylaws. The Members may also transact such other business of the Common Area Association as may properly come before them.

5.2. SPECIAL MEETINGS. The president may call a special meeting of his or her own initiative. Further, it shall be the duty of the president to call a special meeting of the Common Area Association if directed to do so by a Majority of the board or by a petition signed by Members representing at least 10 percent of the votes in the Common Area Association. Such meeting shall be held not sooner than 20 nor more than 30 days after the board resolution or receipt of petition. The notice of any special meeting shall state the time, place, and purpose of such meeting. No business, except the purpose stated in the notice of the meeting, shall be transacted at a special meeting.

5.3. PLACE OF MEETINGS. Meetings of the Common Area Association shall be held at the condominium or at a suitable place in Travis County, Texas, convenient to the Members, as determined by the board and as stated in the meeting notice or at the corporation's registered office if no place is specified.

5.4. NOTICE OF MEETINGS. At the direction of the board, written notice of meetings of the Common Area Association shall be given to an owner of each unit entitled to vote at least 10 days, but no more than 60 days prior to such meeting. Notices of meetings shall state the date, time, and place such meeting is to be held. Notices shall identify the type of meeting as annual or special, and shall state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the board. Notices may be sent by facsimile.

5.5. INELIGIBILITY. The board may determine that no Member may (i) receive notice of meetings of the Common Area Association, (ii) vote at meetings of the Common Area Association, or (iii) be elected to serve as a Director if the Member's financial account with the Common Area Association is in arrears on the record dates provided below, provided each ineligible Member shall be given notice of the arrearage and an opportunity to become eligible. The board may specify the manner, place, and time for payment for purposes of restoring eligibility. All quorums, votes, and consents of the Members shall be based on "eligible votes" rather than total votes.

5.6. RECORD DATES.

5.6.1. Determining Notice Eligibility. The record date for determining the Members entitled to notice of a meeting of the Common Area Association shall be the date of notice of that meeting.

5.6.2. Determining Voting Eligibility. The record date for determining the Members entitled to vote at a meeting of the Common Area Association shall be the date of notice of a meeting of the Common Area Association at which Members will vote.

5.6.3. Determining Rights Eligibility. The record date for determining the Members entitled to exercise any rights other than those described in the preceding two paragraphs, shall be the date of action for which eligibility is required, such as nomination to the board.

5.6.4. Adjournments. A determination of Members entitled to notice of or to vote at a meeting of the Common Area Association is effective for any adjournment of the meeting unless the board fixes a new date for determining the right to notice or the right to vote. The board must fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date more than 90 days after the record date for determining Members entitled to notice of the original meeting.

5.7. VOTING MEMBER LIST. The board shall prepare and make available a list of the Common Area Association's voting Members in accordance with Art. 1396-2.11B of the Act.

5.8. QUORUM. At any meeting of the Common Area Association, the presence at the beginning of any meeting in person, by proxy or by conference telephone of Members entitled to cast at least 60 percent of the eligible votes that may be cast for election of the board shall constitute a quorum, same being 60 percent of the owners of the Phase One Units and 60 percent of the owners of the Phase Two Units. Members present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of Members constituting a quorum.

5.9. LACK OF QUORUM. If a quorum is not obtained, the meeting may be adjourned to a later date and time, not more than 90 days hence, for the purpose of obtaining a quorum.

5.10. VOTES. The vote of Members representing at least a Majority of the votes cast at any meeting at which a quorum is present shall be binding upon all Members for all purposes, except when a higher percentage is required by these bylaws, the declaration, or the laws of the State of Texas. Cumulative voting is prohibited. Voting on any question (other than election of Directors) may be by voice vote, proxy, or show of hands unless the presiding Officer shall order, or any Member shall demand, that voting be by roll call or by written ballot.

5.10.1. Co-Owned Units. If a unit is owned by more than one Member, the vote appurtenant to that unit shall be cast in accordance with Section 82.110(a) of TUCA.

5.10.2. Corporation-Owned Units. If a unit is owned by a corporation, the vote appurtenant to that unit may be cast by any Officer of the corporation in the absence of express written notice of the designation of a specific person by the board of Directors or bylaws of the owning corporation. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express written notice of the designation of a specific person by the owning partnership. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.

5.10.3. Common Area Association Owned Units. Units owned by the Common Area Association shall be

voting but a unanimous decision of the Directors shall be required to cast the vote or votes for the Common Area Association owned unit.

5.11. PROXIES. Votes may be cast in person, by conference telephone or by written proxy. To be valid, each proxy shall (i) be signed and dated by a Member or his attorney-in -fact; (ii) identify the unit to which the vote is appurtenant; (iii) name the person in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the purpose or meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) be delivered to the secretary or to the person presiding over the Common Area Association meeting for which the proxy is designated. Unless the proxy specifies a shorter or longer time, it shall terminate 11 months after its date. To revoke a proxy, the granting Member must give actual written notice of revocation to the person presiding over the Common Area Association meeting for which the proxy is designated. Unless so revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled shall be valid when such meeting reconvenes. Proxies may be delivered via facsimile to the secretary or person presiding over the Common Area Association meeting. It shall be the duty of the person sending a proxy facsimile to confirm its actual receipt.

5.12. CONDUCT OF MEETINGS. The president, or any person designated by the board, shall preside over meetings of the Common Area Association. The secretary shall keep, or cause to be kept, the minutes of the meeting which shall record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Common Area Association when not in conflict with the governing documents. Votes shall be tallied by tellers appointed by the person presiding over the meeting.

5.13. ORDER OF BUSINESS. Unless the notice of meeting states otherwise, the order of business at meetings of the Common Area Association shall be as follows:

- Determine votes present by roll call or sign-in procedure
- Confirmation of quorum
- Proof of notice of meeting
- Reading and approval of minutes of preceding meeting
- Reports

- Election of Directors (when required)
- Unfinished or old business
- New business

5.14. ADJOURNMENT OF MEETING. At any meeting of the Common Area Association, a Majority of the Members present at that meeting, either in person or by proxy, may adjourn the meeting to another time.

5.15. ACTION WITHOUT MEETING. Subject to board approval, any action which may be taken by a vote of the Members at a meeting of the Common Area Association may also be taken without a meeting by written consents. The board may permit Members to vote by ballots delivered by hand, mail, facsimile transmission, or any combination of these. Subject to the time limits of Section 1396-9.10.C. of the Act, written consents by Members required by the governing documents, shall constitute approval by written consent. This paragraph may not be used to avoid the requirement of an annual meeting. This paragraph shall not apply to the election of Directors.

5.16. TELEPHONE MEETINGS. Members of the Common Area Association may participate in and hold meetings of the Common Area Association by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear and speak to each other. Participation in such meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE 6

RULES

6.1. RULES. The board shall have the right to establish and amend, from time to time, reasonable community rules and regulations for: (i) the administration of the Common Area Association and the governing documents; (ii) the maintenance, management, operation, use, conservation, and beautification of the condominium; and (iii) the health, comfort, and general welfare of the residents; provided, however, that such rules may not be in conflict with law or the governing documents and must affect the common elements or other units. The board shall, at all times, maintain the then current and complete rules in a written form which can be copied and distributed to the Members. Rules need not be recorded in the county's real property records. Any such rules shall be in addition

to and not in lieu of any rules and regulations set forth in the Declaration of covenants, conditions and restrictions for The Peninsula on Lake Austin, as amended.

6.2. ADOPTION AND AMENDMENT. Any rule may be adopted, amended, or terminated by the board, provided that the rule and the requisite board approval are properly recorded as a resolution in the minutes of the meeting of the board.

6.3. NOTICE AND COMMENT. The board shall give written notice to an owner of each unit of any amendment, termination, or adoption of a rule, or shall publish same in a newsletter or similar publication which is circulated to the Members, at least 10 days before the rule's effective date. The board may, but shall not be required, to give similar notice to Residents who are not Members. Any Member or Resident so notified shall have the right to comment orally or in writing to the board on the proposed action.

6.4. DISTRIBUTION. Upon request from any Member or Resident, the board shall provide at no cost a current and complete copy of rules. Additionally, the board shall, from time to time, distribute copies of the current and complete rules to an owner of each unit and, if the board so chooses, to non-Member Residents.

ARTICLE 7

ENFORCEMENT

The violation of any provision of the Governing Documents shall give the board the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in the governing documents:

a. To enter a unit in the Project or limited common element in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting owner, any structure, thing, or condition (except for additions or alterations of a permanent nature that may exist in that unit) that is existing and creating a danger to the common elements related to the units in the Project contrary to the intent and meaning of the provisions of the governing documents. The board shall not be deemed liable for any manner of trespass by this action; or

b. To enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. This includes the right to evict Residents who are not owners and the right to cause any such Residents to

attorn to the Common Area Association for any owner who is delinquent in his dues or assessments to the Common Area Association.

ARTICLE 8

OBLIGATIONS OF THE OWNERS

8.1. NOTICE OF SALE. Any owner of a unit in the Project intending to sell his unit in the Project or any interest therein shall give written notice to the board of such intention, together with (i) the address or legal description of the unit in the Project being conveyed, (ii) the name and address of the intended purchaser, (iii) the name, address, and phone number of the title company or attorney designated to close such transaction, (iv) names and phone numbers of real estate agents, if any, representing seller or purchaser, and (v) scheduled date of closing. An owner shall furnish this information to the board no less than 10 working days before the date of conveyance of the unit or any interest therein.

8.2. PROOF OF OWNERSHIP. Any person, on becoming an owner of a unit in the Project, shall furnish to the board evidence of ownership in the unit in the Project, which copy shall remain in the files of the Common Area Association. A Member shall not be deemed to be in good standing nor be entitled to vote at any annual or special meeting of the Common Area Association unless this requirement is first met. This requirement may be satisfied by receipt of a board-approved form that is completed and acknowledged by a title company or attorney at time of conveyance of the unit or any interest therein.

8.3. OWNERS' ADDRESSES. The owner or the several co-owners of a unit in the Project shall register and maintain one mailing address, including a facsimile number, to be used by the Common Area Association for mailing or sending of monthly statements, notices, demands, and all other communications. The owner shall keep the Common Area Association informed of the Member's current mailing address and facsimile number. If an owner fails to provide or maintain a current mailing address and facsimile number with the Common Area Association, the address of that owner's unit in the Project shall be deemed to be his mailing address and such correspondence shall be directed to the "unit owner".

8.4. REGISTRATION OF MORTGAGEES. An owner who mortgages his unit in the Project shall furnish the board with the name and mailing address of his mortgagee.

8.5. ASSESSMENTS. All owners shall be obligated to pay assessments imposed by the Common Area Association to meet the common expenses as defined in the declaration. A Member shall be deemed to be in good standing and entitled to vote at any meeting of the Common Area Association if he is current in the assessments, fines and penalties made or levied against him and his unit in the Project.

8.6. COMPLIANCE WITH DOCUMENTS. Each owner shall comply with the provisions and terms of the governing documents, and any amendments thereto. Further, each owner shall always endeavor to observe and promote the cooperative purposes for which the condominium was established.

ARTICLE 9

COMMON AREA ASSOCIATION RECORDS

9.1. RECORDS. The Common Area Association shall use its best efforts to keep the following records:

a. Minutes or a similar record of the proceedings of meetings of the Common Area Association and the board. A recitation in the minutes that notice of the meeting was properly given shall be sufficient evidence that such notice was given.

b. A record of the notes, proxies and correspondence relating to amendments of the Declaration, Bylaws, or Community Rules.

c. Names and mailing addresses of the Members, the currency and accuracy of the information being the responsibility of the Members.

d. Names and mailing addresses of the mortgagees, the currency and accuracy of the information being the responsibility of the Members and their mortgagees.

e. Detailed financial records and books of account for the Common Area Association, kept in a manner consistent with generally accepted accounting principles. Such financial records shall be annually audited as provided in Section 82.114 (c) of TUCA.

f. If available, a copy of the plans and specifications used to construct the units in the Project in the condominium.

g. A copy of the plans and specifications acquired by the Common Area Association over time for improvements to the units in the Project.

h. Copies of income tax returns prepared for the Internal Revenue Service.

i. The condominium information statement and all amendments thereto prepared under Section 82.152 of TUCA, related to the units in the Project.

j. Copies of the governing documents and all amendments to any of these. Also, for at least three years, a record of all votes or written consents by which amendments to the governing documents were approved.

9.2. INSPECTION OF BOOKS AND RECORDS. Books and records of the Common Area Association shall be made available for inspection and copying at the Common Area Association's registered office or principal office pursuant to Section 82.114(b) of TUCA and Act 1396-2.23.B.

9.3. RESALE CERTIFICATES. Any Officer may prepare or cause to be prepared, certify, and execute resale certificates in accordance with Section 82.157 of TUCA. The Common Area Association may charge a reasonable fee for preparing resale certificates. The Common Area Association may not refuse to furnish resale certificates if the fee is not paid. Any unpaid fees shall be assessed against the unit for which the certificate is furnished.

9.4. RECORDS RETENTION. The Common Area Association records required by this Article 9 shall be kept for a minimum of 3 years after the close of the Common Area Association's fiscal year and in the case of 9.1. (a), (b), (f), and (g) until the Common Area Association is dissolved.

9.5. AMENDMENTS TO DECLARATION. To the extent that the Amendment of the Declaration is otherwise permitted pursuant to the governing documents, the president and the secretary acting together shall be authorized to prepare execute, certify and record amendments to the Declaration.

ARTICLE 10

NOTICES

10.1. CO-OWNERS. If a unit is owned by more than one person, notice to any one co-owner shall be deemed notice to all co-owners.

10.2. DELIVERY OF NOTICES. Any written notice required or permitted by these bylaws may be given personally, by mail, or by facsimile transmission. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the Member at the address shown on the Common Area Association's records. If transmitted by facsimile, the notice is deemed delivered on successful transmission of the facsimile.

10.3. WAIVER OF NOTICE. Whenever any notice is required to be given to an owner, Member, or Director, a written waiver of the notice, signed by the person entitled to such notice, whether before or after the time stated in the notice, shall be equivalent to the giving of such notice. Attendance by a Member or Director at any meeting of the Common Area Association or board, respectively, shall constitute a waiver of notice by such Member or Director of the time, place, and purpose of such meeting unless that Member or Director appears for the sole purpose of contesting the lawful convention of such meeting. If all Members or Directors are present at any meeting of the Common Area Association or board, respectively, no notice shall be required and any business may be transacted at such meeting.

ARTICLE 11

DECLARANT TRANSFER

11.1. CONFLICT. The provisions of this Article 11 shall control over any provision to the contrary elsewhere in these bylaws.

11.2. BOARD OF DIRECTORS. One member of the Directors shall be appointed by the owners of the Phase One Units and two members of the Directors shall be appointed by the Declarant, and need not be owners or Residents. Except to satisfy TUCA §82.103(c) and (d), Directors appointed by Declarant may not be removed by the Members and may be removed by Declarant only. Declarant has the right to fill vacancies in any Directorship vacated by a Declarant appointee.

11.3. TRANSFER OF CONTROL MEETING. Not later than the 120th day after the conveyance of 80% of the Phase Two Units in the Condominium to persons other than the Declarant, or sooner at Declarant's option, Declarant shall call a transfer of control of the election of its two members of the Directors to the owners of the Phase Two Units for the purpose of electing such Directors. Notice of the transfer of control meeting from the Declarant shall be given as if it were notice of an annual meeting.

ARTICLE 12

AMENDMENTS TO BYLAWS

12.1. PROPOSALS. These bylaws may be amended by the Members according to the terms of this Article. The Common Area Association shall provide an owner of each unit in the Project with exact wording of any proposed amendment. Such description shall be included in the notice of any annual or special meeting of the Common Area Association if such proposed amendment is to be considered at said meeting.

12.2. CONSENTS. An amendment shall be adopted by the vote, in person or by proxy, or written consent, or by mail, facsimile transmission or a combination of all of the above, of Members representing at least 60% of the eligible votes of the owners of the Phase One Units and at least 60% of the eligible votes of the owners of the Phase Two Units.

12.3. EFFECTIVE. To be effective, each amendment must be in writing, reference the names of the condominium and the Common Area Association, be signed by at least the president and secretary of the Common Area Association acknowledging the requisite approval of Members, and be delivered to an owner of each unit at least 10 days before the amendment's effective date. Further, if these bylaws are publicly recorded in the county in which the condominium is located, the amendment must recite and recording data for the bylaws, be in a form suitable for recording as a real property record in such county, and be recorded with the county clerk in the real property records of such county.

ARTICLE 13

GENERAL PROVISIONS

13.1. CONFLICTING PROVISIONS. If any provision of these bylaws conflicts with any provision of the laws of the State of Texas, such conflicting bylaws provision shall be null and void, but all other provisions of these bylaws shall remain in full force and effect. In the case of any conflict between the articles of incorporation of the Common Area Association and these bylaws, the articles shall control. In the case of any conflict between the declaration and these bylaws, the declaration shall control.

13.2. SEVERABILITY. Invalidation of any provision of these bylaws, by judgement or court order, shall in no

wise affect any other provision which shall remain in full force and effect. The effect of a general statement shall not be limited by the enumerations of specific matters similar to the general.

13.3. FISCAL YEAR. The fiscal year of the Common Area Association shall be set by resolution of the board, and is subject to change from time to time as the board shall determine. In the absence of a resolution by the board, the fiscal year shall be the calendar year.

13.4. WAIVER. No restriction, condition, obligation, or covenant contained in these bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

13.5. SEAL. A corporate seal may be adopted for use by the Corporation but shall not be required to be used by Corporation.

13.6. NOTICE OF INDEMNIFICATION OF OR ADVANCE OF EXPENSES. Any indemnification of or advance of expenses to an Officer, Director or other person in accordance with the Articles or these Bylaws shall be reported in writing to the Members with or before the notice or waiver of notice of the next Member's meeting or with or before the next submission to Members of a consent to action without a meeting pursuant to Section A of Article 1396-9.10, of the Act, as amended, and, in any case, within the 12-month period immediately following the date of the indemnification or advance.

CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, complete, and correct copy of the Amended and Restated Bylaws of The Peninsula on Lake Austin Common Area Council of Owners, Inc., a Texas nonprofit corporation and condominium association, as adopted by the Board of Directors on the 3rd day of May, 1995.

The Peninsula on Lake Austin
Common Area Council of Owners,
Inc.

By: 

Thomas H. Somers, Secretary

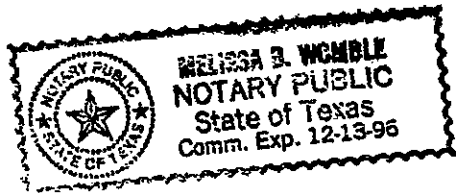
THE STATE OF TEXAS
COUNTY OF TRAVIS

§
§
§

Before me, the undersigned authority, on this 3rd day of May, 1995, personally appeared Thomas H. Somers, Secretary of The Peninsula on Lake Austin Council of Owners, Inc. known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same on behalf of such corporation, and in the capacity so stated.

Melissa B. Womble
Notary Public in and for the
State of Texas

(INK STAMP NOTARY SEAL)



FILED
95 MAY 19 PM 4:31
DANA H. BEAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

RECEIPT#: R00001769 TRANS#: R0021 DEPT: INDEXING FEE \$214.00
CASHIER: KRFR1 FILE DATE: 5/19/95 TRANS DATE: 5/22/95
PAID BY: CHECK# 7114

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me; and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas, on

MAY 19 1995

Dana H. Beauvoir
COUNTY CLERK
TRAVIS COUNTY, TEXAS

PENINSULA\COMMONAREA.BYL

24
RECEIPT#: R00001769 TRANS#: R5020 DEPT: REGULAR RECORD \$55.75
CASHIER: KRFR1 FILE DATE: 5/19/95 TRANS DATE: 5/22/95
PAID BY: CHECK# 7114
REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12661 1367



The State of Texas

SECRETARY OF STATE

**CERTIFICATE OF INCORPORATION
OF**

**THE PENINSULA ON LAKE AUSTIN PHASE ONE COUNCIL OF OWNERS, INC.
CHARTER NUMBER 1356944-01**

The undersigned, as Secretary of State of Texas, hereby certifies that the attached Articles of Incorporation for the above named corporation have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation.

Issuance of this Certificate of Incorporation does not authorize the use of a corporate name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: May 19, 1995
Effective May 19, 1995





Antonio O. Garza, Jr.
Secretary of State

MAY 19 1995

CORPORATIONS SECTION

ARTICLES OF INCORPORATION
OF

THE PENINSULA ON LAKE AUSTIN PHASE ONE COUNCIL OF OWNERS, INC.

A Texas Nonprofit Corporation

I, the undersigned natural person over the age of eighteen years, acting as incorporator of a corporation under the Texas Non-Profit Corporation Act (the "Act"), do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE 1. CONDOMINIUM ASSOCIATION. The corporation shall be, mean, and constitute the unit owners' association for the Phase One units in The Peninsula on Lake Austin, a condominium project (formerly St. Tropez Lakehomes), same being Units 1 - 5, Phase One, The Peninsula on Lake Austin (formerly Units 1 - 5, Building A, St. Tropez Lakehomes) (the "Phase One Units"), organized pursuant to Section 82.101, Texas Uniform Condominium Act ("TUCA"), which is defined as the "Phase One Association" and is referred to as the "Phase One Council of Owners" in the Amended and Restated Enabling Declaration for Establishment of a Condominium for The Peninsula on Lake Austin Phase One and Phase Two (formerly St. Tropez Lakehomes) ("Restated Declaration") recorded in the Real Property Records of Travis County, Texas, which Restated Declaration amended and restated that certain Enabling Declaration for Establishment of a Condominium for St. Tropez Lakehomes ("Original Declaration") recorded in Volume 9671, Page 892 of the Real Property Records of Travis County, Texas, which Original Declaration was amended by that certain Agreement Regarding Assignment of Developer Rights and Acknowledgement of Authority and Agreement and Amendment to Declaration ("First Amendment") recorded in Volume 12163, Page 618 of the Real Property Records of Travis County, Texas, (the Original Declaration, the First Amendment and the Restated Declaration are hereinafter sometimes collectively referred to as the "Declaration"), with respect to certain real property located in the City of Austin, Travis County, Texas, locally known as The Peninsula on Lake Austin, located at 2305 Westlake Drive in Austin, Texas.

ARTICLE 2. NAME. The name of the Phase One Association is The Peninsula on Lake Austin Phase One Council of Owners, Inc.

ARTICLE 3. NONPROFIT. The Phase One Association is a nonprofit corporation, organized pursuant to the Act.

ARTICLE 4. DURATION. The duration of the Phase One Association shall be perpetual.

ARTICLE 5. PURPOSES. The general purposes for which the Phase One Association is formed are to exercise the rights and powers and to perform the duties and obligations of the Phase One Association, in accordance with the Declaration, the bylaws of the Phase One Council of Owners, the laws of the State of Texas, including the Act and TUCA (now codified as Chapter 82 of the Texas Property Code), as each may be amended from time to time. By way of explanation, but not limitation, the Phase One Association's specific purposes may include:

(i) fixing, levying, collecting, and enforcing payment of any charges or assessments as set forth in the Declaration as same relate solely to the Phase One Units; paying all expenses in connection therewith and all office and other expenses incidental to the conduct of the business of the Phase One Association referred to in the Declaration, including all licenses, taxes or governmental charges levied or imposed against the property of the Phase One Association;

(ii) may evict any tenants of a member who violate the provisions of the Declaration or the Rules and Regulations of the Phase One Association, or who fail to timely pay for any damage they cause to the common elements of the Condominium created by the Declaration; and

(iii) may collect rent directly from a tenant of a member who is delinquent in whole or part in the payment of assessments or other sums owed to the Phase One Association.

By way of explanation and not limitation, the Phase One Association's duties include the record keeping requirements set forth in Section 82.114 of TUCA and the duty to record the management certificate specified in Section 82.116 of TUCA, as the same may be awarded from time to time.

ARTICLE 6. POWERS. In furtherance of its purposes, the Phase One Association shall have the following powers which, unless otherwise restricted by these articles, the Declaration, the bylaws, or laws of the State of Texas, may be exercised by the board of directors:

1. All rights and powers conferred upon nonprofit corporations by the laws of the State of Texas in effect from time to time;

2. All rights and powers conferred upon condominium owners' associations by the laws of the State of Texas, including TUCA, and the right stated in Section 82.105 thereof to terminate certain contracts and leases made by the Phase One Association while controlled by the Declarant as provided therein, all as in effect from time to time; and

3. All powers necessary, appropriate, or advisable to perform any purpose or duty of the Phase One Association as set out in these articles, the bylaws, the Declaration, or the laws of the State of Texas, including TUCA.

4. Notwithstanding the foregoing stated purposes, the Phase One Association shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are otherwise permissible but which are not in furtherance of managing, maintaining and preserving the Condominium regime created by the Declaration.

ARTICLE 7. MEMBERSHIP. The Phase One Association shall be a non-stock membership corporation. There shall be only one class of membership, which shall not be certificated. The Declaration and bylaws shall determine the number and qualifications of members of the Phase One Association; the voting rights and other privileges of membership; and the obligations and liabilities of members. Cumulative voting is prohibited.

ARTICLE 8. MANAGEMENT BY BOARD. The management and affairs of the Phase One Association shall be vested in its board of directors. The bylaws shall determine the number (which pursuant to Art. 1396-2.15 of the Act shall never be less than 3) and qualification of directors; the term of office of directors; the methods of electing, removing, and replacing directors; and the permitted methods of holding board meetings and obtaining consents.

ARTICLE 9. LIMITATIONS ON LIABILITY. a. Except as provided in Paragraph b below, an officer or director of the Phase One Association is not liable to the Phase One Association or its members for monetary damages for acts or omissions that occur in that person's capacity as an officer or director, except to the extent the person is found liable for:

(i) a breach of the officer's or director's fiduciary duty or duty of loyalty to the Phase One Association or its members;

(ii) an act or omission not in good faith that constitutes a breach of duty of the officer or director to the Phase One Association;

(iii) an act or omission that involves intentional misconduct or a knowing violation of the law;

(iv) a transaction from which the officer or director receives an improper benefit, whether or not the benefit resulted from an action taken within the scope of the person's office; or

(v) an act or omission for which the liability of an officer or director is expressly provided by an applicable statute.

The liability of officers and directors of the Phase One Association shall be further limited by the Charitable Immunity and Liability Act of 1987, Chapter 84, Texas Civil Practice and Remedies Code, as amended. Any amendment, repeal or modification of the foregoing provision by the members of the Phase One Association shall not adversely affect any limitation on the liability or any director or officer of the Phase One Association existing at or prior to the time of such amendment, repeal or modification.

b. The limitation on the liability of an officer or director does not eliminate or modify that person's liability as a member of the Phase One Association. The liability of any member arising out of any contract made by the Phase One Association, or out of the indemnification of officers or directors, or for damages as a result of injuries arising in connection with the common elements and not caused by such member or another person for whom such member is responsible, or for liabilities incurred by the Phase One Association, wherein the members expressly assume in writing personal liability, shall be limited to the same proportion in which such member is liable for common expenses as a member of the Phase One Association. Pursuant to Art. 1396-2.08E of the Act, members of the Phase One Association are not personally liable for the debts, liabilities or obligations of the Phase One Association.

ARTICLE 10. INDEMNIFICATION. Subject to the limitations and requirements of Art. 1396-2.22A of the Act, the Phase One Association shall indemnify an officer or director against reasonable expenses incurred by him in connection with a proceeding in which he is named a defendant or respondent because he is or was an officer or director if he has been wholly successful on the merits or otherwise, in defense of the proceeding. Subject to the limitations and requirements of Art. 1396-2.22A of the Act, the Phase One Association, may advance or reimburse reasonable expenses to, a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was an officer or director of the Phase One Association or who is compelled to appear as a witness or otherwise participate in a proceeding in which he is not named as a defendant or respondent. Additionally, subject to the limitations of Article 1396-2.22A of the Act, the Phase One Association may indemnify, and may advance or reimburse reasonable expenses to, a person who is or was an employee, trustee, agent, or attorney of the Phase One Association, against any liability asserted against such person and incurred by such person in such a capacity and arising out of such person's status.

ARTICLE 11. AMENDMENT OF ARTICLES. These articles may be amended in accordance with the Act, subject to the following:

1. An amendment shall not conflict with the Declaration or TUCA.

2. Without member approval, the board of directors may adopt amendments permitted by Art. 1396-4.02A(4) of the Act.

3. The consent of member's lienholders shall not be required to amend these articles.

4. An amendment must be approved by at least 60% of the owners of the Phase Two Units.

ARTICLE 12. AMENDMENT OF BYLAWS.

The bylaws of the Phase One Association shall be amended or repealed according to the amendment provision of the bylaws, which may reserve those powers to the members, exclusively.

ARTICLE 13. DISSOLUTION. The Phase One Association may be dissolved only as provided in the Declaration, bylaws, and by the laws of the State of Texas, including TUCA. On dissolution, the assets of the Phase One Association shall be distributed in accordance with the Declaration provision for distribution upon termination. If the Declaration has no such provision, then the assets of the Phase One Association shall be distributed in accordance with the termination provisions Section 1396-6.02.A(3) of the Act and to the extent not inconsistent therewith, the provisions of TUCA.

ARTICLE 14. ACTION WITHOUT MEETING. Pursuant to Article 1396-9.10.C. of the Act, any action required by the Act to be taken at a meeting of the members or directors, or any action that may be taken at a meeting of members or directors may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by all of members or directors.

ARTICLE 15. INITIAL BOARD OF DIRECTORS. The initial board shall consist of five directors who shall serve as directors until their successors shall have been elected and qualified, as provided in the bylaws. The name and address of each initial director is as follows:

<u>Name</u>	<u>Address</u>
William W. Brooks	2305 Westlake Drive, Unit 1 Austin, TX 78746
Frank Schaefer	7850 Ivanhoe Ave. La Jolla, CA 92037
Noeleen J. Schaefer	7850 Ivanhoe Ave. La Jolla, CA 92037
Carole Graham	6855 La Jolla Scenic Drive La Jolla, CA 93027

Thomas H. Somers 2305 Westlake Drive
Austin, TX 78746


The initial directors shall convene an organizational meeting as contemplated by Art. 1396-3.05(A) of the Act following the issuance of the Phase One Association's Certificates of Incorporation.

ARTICLE 16. INITIAL REGISTERED AGENT. The name of the Phase One Association's initial registered agent is William D. Brown. The address of its initial registered office is 901 Congress Ave.; Austin, Texas 78701.

ARTICLE 17. INCORPORATOR. The name and address of the incorporator is as follows:

Thomas H. Somers
2305 Westlake Drive, Unit 12
Austin, Texas 78746

I execute these Articles of Incorporation on this 3rd day of May, 1995.



Thomas H. Somers

THE PENINSULA ON LAKE AUSTIN
COMMON AREA COUNCIL OF OWNERS, INC.
2305 Westlake Drive, Unit 12
Austin, Texas 78746

May 3, 1995

Secretary of State
Corporate Division
P. O. Box 13697
Austin, Texas 78711

To Whom It May Concern:

THE PENINSULA ON LAKE AUSTIN COMMON AREA COUNCIL OF OWNERS, INC. hereby authorizes THE PENINSULA ON LAKE AUSTIN PHASE ONE COUNCIL OF OWNERS, INC. to use the name "THE PENINSULA ON LAKE AUSTIN PHASE ONE COUNCIL OF OWNERS, INC."

THE PENINSULA ON LAKE AUSTIN COMMON
AREA COUNCIL OF OWNERS, INC.

By: 
Thomas H. Somers, Director

PDA:mbw



The State of Texas

SECRETARY OF STATE

CERTIFICATE OF INCORPORATION OF

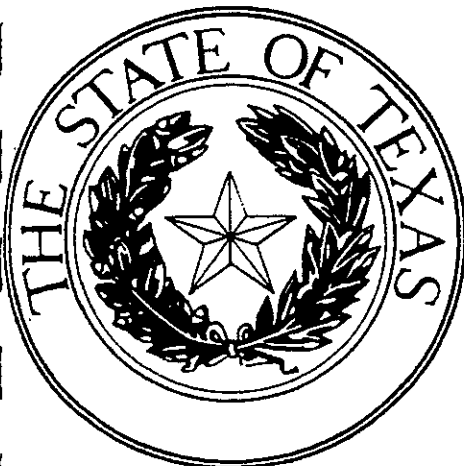
THE PENINSULA ON LAKE AUSTIN PHASE TWO COUNCIL OF OWNERS, INC.
CHARTER NUMBER 1356943-01

The undersigned, as Secretary of State of Texas, hereby certifies that the attached Articles of Incorporation for the above named corporation have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation.

Issuance of this Certificate of Incorporation does not authorize the use of a corporate name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: May 19, 1995
Effective May 19, 1995



Antonio O. Garza, Jr.
Secretary of State

LCS

FILED
In the Office of the
Secretary of State of Texas
MAY 19 1995
CORPORATIONS SECTION

ARTICLES OF INCORPORATION
OF

THE PENINSULA ON LAKE AUSTIN PHASE TWO COUNCIL OF OWNERS, INC

A Texas Nonprofit Corporation

I, the undersigned natural person over the age of eighteen years, acting as incorporator of a corporation under the Texas Non-Profit Corporation Act (the "Act"), do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE 1. CONDOMINIUM ASSOCIATION. The corporation shall be, mean, and constitute the unit owners' association for the Phase Two units in The Peninsula on Lake Austin condominium project, (formerly St. Tropez Lakehomes) same being Units 6 - 15, Phase Two, The Peninsula on Lake Austin (formerly Units 6 - 15, Building A, St. Tropez Lakehomes) (the "Phase Two Units"), organized pursuant to Section 82.101, Texas Uniform Condominium Act ("TUCA"), which is defined as the "Phase Two Association" and is referred to as the "Phase Two Council of Owners" in the Amended and Restated Enabling Declaration for Establishment of a Condominium for The Peninsula on Lake Austin Phase One and Phase Two (formerly St. Tropez Lakehomes) ("Restated Declaration") recorded in the Real Property Records of Travis County, Texas, which Restated Declaration amended and restated that certain Enabling Declaration for Establishment of a Condominium for St. Tropez Lakehomes ("Original Declaration") recorded in Volume 9671, Page 892 of the Real Property Records of Travis County, Texas, which Original Declaration was amended by that certain Agreement Regarding Assignment of Developer Rights and Acknowledgement of Authority and Agreement and Amendment to Declaration ("First Amendment") recorded in Volume 12163, Page 618 of the Real Property Records of Travis County, Texas, (the Original Declaration, the First Amendment and the Restated Declaration are hereinafter sometimes collectively referred to as the "Declaration"), with respect to certain real property located in the City of Austin, Travis County, Texas, locally known as The Peninsula on Lake Austin, located at 2305 Westlake Drive in Austin, Texas.

ARTICLE 2. NAME. The name of the Phase Two Association is The Peninsula on Lake Austin Phase Two Council of Owners, Inc.

ARTICLE 3. NONPROFIT. The Phase Two Association is a nonprofit corporation, organized pursuant to the Act.

ARTICLE 4. DURATION. The duration of the Phase Two Association shall be perpetual.

ARTICLE 5. PURPOSES. The general purposes for which the Phase Two Association is formed are to exercise the rights and powers and to perform the duties and obligations of the Phase Two Association, in accordance with the Declaration, the bylaws of the Phase Two Council of Owners, the laws of the State of Texas, including the Act and TUCA (now codified as Chapter 82 of the Texas Property Code), as each may be amended from time to time. By way of explanation, but not limitation, the Phase Two Association's specific purposes may include:

(i) fixing, levying, collecting, and enforcing payment of any charges or assessments as set forth in the Declaration as same relate solely to the Phase Two Units; paying all expenses in connection therewith and all office and other expenses incidental to the conduct of the business of the Phase Two Association referred to in the Declaration, including all licenses, taxes or governmental charges levied or imposed against the property of the Phase Two Association;

(ii) may evict any tenants of a member who violate the provisions of the Declaration or the Rules and Regulations of the Phase Two Association, or who fail to timely pay for any damage they cause to the common elements of the Condominium created by the Declaration; and

(iii) may collect rent directly from a tenant of a member who is delinquent in whole or part in the payment of assessments or other sums owed to the Phase Two Association.

By way of explanation and not limitation, the Phase Two Association's duties include the record keeping requirements set forth in Section 82.114 of TUCA and the duty to record the management certificate specified in Section 82.116 of TUCA, as the same may be awarded from time to time.

ARTICLE 6. POWERS. In furtherance of its purposes, the Phase Two Association shall have the following powers which, unless otherwise restricted by these articles, the Declaration, the bylaws, or laws of the State of Texas, may be exercised by the board of directors:

1. All rights and powers conferred upon nonprofit corporations by the laws of the State of Texas in effect from time to time;

2. All rights and powers conferred upon condominium owners' associations by the laws of the State of Texas, including TUCA, and the right stated in Section 82.105 thereof to terminate certain contracts and leases made by the Phase Two Association while controlled by the Declarant as provided therein, all as in effect from time to time; and

3. All powers necessary, appropriate, or advisable to perform any purpose or duty of the Phase Two Association as set out in these articles, the bylaws, the Declaration, or the laws of the State of Texas, including TUCA.

4. Notwithstanding the foregoing stated purposes, the Phase Two Association shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are otherwise permissible but which are not in furtherance of managing, maintaining and preserving the Condominium regime created by the Declaration.

ARTICLE 7. MEMBERSHIP. The Phase Two Association shall be a non-stock membership corporation. There shall be only one class of membership, which shall not be certificated. The Declaration and bylaws shall determine the number and qualifications of members of the Phase Two Association; the voting rights and other privileges of membership; and the obligations and liabilities of members. Cumulative voting is prohibited.

ARTICLE 8. MANAGEMENT BY BOARD. On the 120th day after conveyance of 80% of the Phase Two Units created by the Declaration to persons or entities other than the Declarant or to any person or entity receiving the Declarant's special rights of control, the management and affairs of the Phase Two Association shall be vested in its board of directors, except for those matters expressly reserved to the Declarant or others in the Declaration and bylaws. Notwithstanding such special rights of control of the Declarant, on the 120th day after conveyance of 80% of the Phase Two Units created by the Declaration to persons or entities other than the Declarant, the Board of Directors shall be elected by Phase Two Unit owners. The bylaws shall determine the number (which pursuant to Art. 1396-2.15 of the Act shall never be less than 3) and qualification of directors; the term of office of directors; the methods of electing, removing, and replacing directors; and the permitted methods of holding board meetings and obtaining consents.

ARTICLE 9. LIMITATIONS ON LIABILITY. a. Except as provided in Paragraph b below, an officer or director of the Phase Two Association is not liable to the Phase Two Association or its members for monetary damages for acts or omissions that occur in that person's capacity as an officer or director, except to the extent the person is found liable for:

(i) a breach of the officer's or director's fiduciary duty or duty of loyalty to the Phase Two Association or its members;

(ii) an act or omission not in good faith that constitutes a breach of duty of the officer or director to the Phase Two Association;

(iii) an act or omission that involves intentional misconduct

or a knowing violation of the law;

(iv) a transaction from which the officer or director receives an improper benefit, whether or not the benefit resulted from an action taken within the scope of the person's office; or

(v) an act or omission for which the liability of an officer or director is expressly provided by an applicable statute.

The liability of officers and directors of the Phase Two Association shall be further limited by the Charitable Immunity and Liability Act of 1987, Chapter 84, Texas Civil Practice and Remedies Code, as amended. Any amendment, repeal or modification of the foregoing provision by the members of the Phase Two Association shall not adversely affect any limitation on the liability of any director or officer of the Phase Two Association existing at or prior to the time of such amendment, repeal or modification.

b. The limitation on the liability of an officer or director does not eliminate or modify that person's liability as a member of the Phase Two Association. The liability of any member arising out of any contract made by the Phase Two Association, or out of the indemnification of officers or directors, or for damages as a result of injuries arising in connection with the common elements and not caused by such member or another person for whom such member is responsible, or for liabilities incurred by the Phase Two Association, wherein the members expressly assume in writing personal liability, shall be limited to the same proportion in which such member is liable for common expenses as a member of the Phase Two Association. Pursuant to Art. 1396-2.08E of the Act, members of the Phase Two Association are not personally liable for the debts, liabilities or obligations of the Phase Two Association.

ARTICLE 10. INDEMNIFICATION. Subject to the limitations and requirements of Art. 1396-2.22A of the Act, the Phase Two Association shall indemnify an officer or director against reasonable expenses incurred by him in connection with a proceeding in which he is named a defendant or respondent because he is or was an officer or director if he has been wholly successful on the merits or otherwise, in defense of the proceeding. Subject to the limitations and requirements of Art. 1396-2.22A of the Act, the Phase Two Association, may advance or reimburse reasonable expenses to, a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was an officer or director of the Phase Two Association or who is compelled to appear as a witness or otherwise participate in a proceeding in which he is not named as a defendant or respondent. Additionally, subject to the limitations of Article 1396-2.22A of the Act, the Phase Two Association may indemnify, and may advance or reimburse reasonable expenses to, a person who is or was an employee, trustee, agent, or attorney of the Phase Two Association,

against any liability asserted against such person and incurred by such person in such a capacity and arising out of such person's status.

ARTICLE 11. AMENDMENT OF ARTICLES. These articles may be amended in accordance with the Act, subject to the following:

1. An amendment shall not conflict with the Declaration or TUCA.
2. An amendment shall not impair or dilute a right granted to the Declarant or other person by the Declaration, without Declarant's or that person's written consent as applicable.
3. Without member approval, the board of directors may adopt amendments permitted by Art. 1396-4.02A(4) of the Act.
4. The consent of member's lienholders shall not be required to amend these articles.
5. An amendment must be approved by at least 60% of the owners of the Phase Two Units.

ARTICLE 12. AMENDMENT OF BYLAWS.

The bylaws of the Phase Two Association shall be amended or repealed according to the amendment provision of the bylaws, which may reserve those powers to the members, exclusively.

ARTICLE 13. DISSOLUTION. The Phase Two Association may be dissolved only as provided in the Declaration, bylaws, and by the laws of the State of Texas, including TUCA. On dissolution, the assets of the Phase Two Association shall be distributed in accordance with the Declaration provision for distribution upon termination. If the Declaration has no such provision, then the assets of the Phase Two Association shall be distributed in accordance with the termination provisions Section 1396-6.02.A(3) of the Act and to the extent not inconsistent therewith, the provisions of TUCA.

ARTICLE 14. ACTION WITHOUT MEETING. Pursuant to Article 1396-9.10.C. of the Act, any action required by the Act to be taken at a meeting of the members or directors, or any action that may be taken at a meeting of members or directors may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by all members or directors.

ARTICLE 15. INITIAL BOARD OF DIRECTORS. The initial board shall consist of three directors who shall serve as directors until their successors shall have been elected and qualified, as provided in the bylaws. The name and address of each initial director is as follows:

<u>Name</u>	<u>Address</u>
Thomas H. Somers	2305 Westlake Drive Austin, TX 78746
Lynda O'Rourke	9731 Claiborne Square La Jolla, CA 92037
Michael Lubitz	1434 Albahr Drive La Jolla, CA 92037

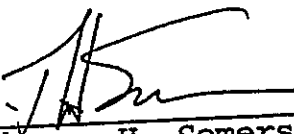
The initial directors shall convene an organizational meeting as contemplated by Art. 1396-3.05(A) of the Act following the issuance of the Phase Two Association's Certificates of Incorporation.

ARTICLE 16. INITIAL REGISTERED AGENT. The name of the Phase Two Association's initial registered agent is William D. Brown. The address of its initial registered office is 901 Congress Ave., Austin, Texas 78701.

ARTICLE 17. INCORPORATOR. The name and address of the incorporator is as follows:

Thomas H. Somers
2305 Westlake Drive, Unit 12
Austin, Texas 78746

I execute these Articles of Incorporation on this 3rd day of May, 1995.



Thomas H. Somers

THE PENINSULA ON LAKE AUSTIN
COMMON AREA COUNCIL OF OWNERS, INC.
2305 Westlake Drive, Unit 12
Austin, Texas 78746

May 3, 1995

Secretary of State
Corporate Division
P. O. Box 13697
Austin, Texas 78711

To Whom It May Concern:

THE PENINSULA ON LAKE AUSTIN COMMON AREA COUNCIL OF OWNERS, INC. hereby authorizes THE PENINSULA ON LAKE AUSTIN PHASE TWO COUNCIL OF OWNERS, INC. to use the name "THE PENINSULA ON LAKE AUSTIN PHASE TWO COUNCIL OF OWNERS, INC.".

THE PENINSULA ON LAKE AUSTIN COMMON
AREA COUNCIL OF OWNERS, INC.

By: 

Thomas H. Somers, Director

PDA:mbw