

**Secretary of State**  
**Corporations Division**  
**315 West Tower**  
**#2 Martin Luther King, Jr. Dr.**  
**Atlanta, Georgia 30334-1530**

CONTROL NUMBER: 0428195  
EFFECTIVE DATE : 05/04/2004  
JURISDICTION : GEORGIA  
REFERENCE : 0012  
PRINT DATE : 05/13/2004  
FORM NUMBER : 311

**JACK K. KEMP**  
**3046 BOLD SPRINGS ROAD**  
**MONROE, GA 30656**

**CERTIFICATE OF INCORPORATION**

I, Cathy Cox, the Secretary of State and the Corporations Commissioner of the State of Georgia, do hereby certify under the seal of my office that

**MORGAN'S CROSSING SUBDIVISION HOMEOWNERS ASSOCIATION, INC.**  
**A DOMESTIC NONPROFIT CORPORATION**

has been duly incorporated under the laws of the State of Georgia on the effective date stated above by the filing of articles of incorporation in the Office of the Secretary of State and by the paying of fees as provided by Title 14 of the Official Code of Georgia Annotated.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on the date set forth above.



Cathy Cox  
Secretary of State



CATHY COX  
Secretary of State

OFFICE OF SECRETARY OF STATE  
CORPORATIONS DIVISION

315 West Tower, #2 Martin Luther King, Jr. Drive  
Atlanta, Georgia 30334-1530  
(404) 656-2817

Registered agent, officer, entity status information via the Internet  
<http://www.georgiacorporations.org>

WARREN RARY  
Director

ENRICO M. ROBINSON  
Assistant Director

TRANSMITTAL INFORMATION  
GEORGIA PROFIT OR NONPROFIT CORPORATIONS

DO NOT WRITE IN SHADED AREA - SOS USE ONLY

DOCKET #	PENDING #	CONTROL #
DOCKET CODE	DATE FILED	AMOUNT RECEIVED
TYPE CODE	EXAMINER	JURISDICTION (COUNTY) CODE
		Walton

NOTICE TO APPLICANT: PRINT PLAINLY OR TYPE REMAINDER OF THIS FORM

1. 041340669  
Corporate Name Reservation Number (if one has been obtained; if articles are being filed without prior reservation, leave this line blank)  
Morgan's Crossing Subdivision Homeowners Association  
Corporate Name (List *exactly* as it appears in articles)

2. Jack K. Kemp 770-207-5855  
Name of person filing articles (certificate will be mailed to this person, at address below) Telephone Number  
3046 Bold Springs Road  
Address  
Monroe GA 30656  
City State Zip Code

3. Mail or deliver the following items to the Secretary of State, at the above address:
- 1) This transmittal form
  - 2) Original and one copy of the Articles of Incorporation
  - 3) Filing fee of \$100.00 payable to Secretary of State. Filing fees are NON-refundable.

I certify that a Notice of Incorporation or Notice of Intent to Incorporate with a publication fee of \$40.00 has been or will be mailed or delivered to the official organ of the county where the initial registered office of the corporation is to be located. (List of legal organs is posted at web site; or, the Clerk of Superior Court can advise you of the official organ in a particular county.)

Authorized signature of person filing documents

April 27, 2004

Date

Request certificates and obtain entity information via the Internet: <http://www.georgiacorporations.org>



**ARTICLES OF INCORPORATION  
MORGAN'S CROSSING SUBDIVISION  
HOMEOWNERS ASSOCIATION, INC.**

This corporation is organized pursuant to the Georgia Nonprofit Corporation Code. The undersigned hereby adopts the following Articles of Incorporation and certifies as follows:

**ARTICLE 1. Name.** The name of the corporation is "**Morgan's Crossing Subdivision Homeowners Association, Inc.**". Hereinafter referred to as the "Association."

**ARTICLE 2. Duration.** The period of duration of the Association shall be perpetual.

**ARTICLE 3. Purposes.** The purposes for which the Association is organized are:

- (a) To provide for the efficient preservation of the appearance, value and amenities of the property which is subject to the **Morgan's Crossing Subdivision Declaration of Covenants, Conditions and Restrictions** (the "Declaration") filed and recorded on May 30, 2003, by the Clerk of the Superior Court for Walton County, Georgia. Capitalized terms not otherwise defined herein shall have the same meanings given to them in the Declaration.
- (b) To own, operate, maintain, repair and replace Common Areas of the Development.
- (c) To the extent provided in the Declaration, to control the specifications, architecture, design, appearance, siting and landscaping of all Improvements to be constructed, placed or permitted to remain on any Lot or Dwelling in the Development and all alterations, changes and additions thereto.
- (d) To perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Declaration, these Articles of Incorporation, the Bylaws of this Association and all amendments thereto.
- (e) To own, lease, license, operate, purchase, acquire, hold, improve, develop, manage, sell, convey, transfer, exchange, release and dispose of, either alone or in conjunction with others, real and personal property, tangible and intangible, of every kind, character and description.
- (f) To enforce all of the terms and provisions of the Declaration and to make, establish and enforce reasonable rules and regulations governing the administration, operation and management of the Development.
- (g) To make, levy, collect and enforce Assessments, as defined in the Declaration and to use and expend such Assessments in the manner set forth in the Declaration.
- (h) To employ personnel and contract for services, material and labor, including contracting for the management of the Common Areas and all other portions of the Development.
- (i) To purchase and maintain insurance for such coverage, with such insurance carriers, in such amounts, at such rates, and with such deductibles as may be necessary for the protection of the Association, its officers, directors and members.
- (j) To enforce any of the provisions of the Declaration by legal and equitable actions as may from time to time be necessary.
- (k) To enter into, make and perform contracts of every kind for any lawful purpose without limit as to the amount, with any person, firm, association, partnership, limited partnership, corporation, municipality, county, state, territory, government, governmental subdivision or body public.



(l) To operate without profit for the sole and exclusive benefit of its members.

(m) To carry on any other business in connection with the foregoing and to have and exercise all powers necessary or convenient to effectuate the purposes of the Association in accordance with and subject to the terms and provisions of the Declaration.

THIS ASSOCIATION DOES NOT CONTEMPLATE PECUNIARY GAIN OR PROFIT FOR THE MEMBERS THEREOF AND THE FUNDS OF THE ASSOCIATION, WHETHER RECEIVED BY GIFT OR OTHERWISE, REGARDLESS OF THE SOURCE THEREOF, SHALL BE EXCLUSIVELY USED IN THE PROMOTION OF THE BUSINESS OF THE ASSOCIATION, AS THE BOARD OF DIRECTORS MAY FROM TIME TO TIME DETERMINE.

**ARTICLE 4. Initial Registered Office And Agent.** The location and mailing address of the initial registered office of the Association, and the name of its initial registered agent at such address, are as follows:

Jack K. Kemp  
3046 Bold Springs Road  
Monroe, GA 30656

**ARTICLE 5. Nonstock And Nonprofit Status.** The Association shall have no capital stock, is not organized for profit and does not contemplate pecuniary gain or profit to the members thereof. No part of the earnings of the Association shall inure to the benefit of any member, individual officer or director. The Association does not contemplate the distribution of gains, profits or dividends to the members thereof and is organized solely for nonprofit purposes.

**ARTICLE 6. Members.** The Association shall be composed of Class A and Class B Members as designated in the Declaration. Developer shall be deemed a Class A Member of the Association. PBT Investments and its associated builders group shall be deemed a Class A Member of the Association. Class B Members of the Association shall consist of all other Owners. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot or Dwelling. Subject to the superior rights of the Developer, Class A Members shall be entitled to all voting rights attributable to any Lots and Dwellings owned by Class A Members. Notwithstanding anything provided herein or in the Bylaws of the Association to the contrary, for so long as Developer owns any Lot or Dwelling in the Development, other than a Dwelling used by Developer for a personal residence, (a) Developer shall have the sole and exclusive right to (i) elect the Board of Directors in the Association, (ii) appoint the officers of the Association and the members of the ARC, as defined in the Declaration, (iii) remove and replace any members of the Board of Directors of the Association, the officers of the Association, and the members of the ARC, (iv) amend these Articles of Incorporation and the Bylaws, (v) amend the Declaration (subject to the limitations set forth in Section 12.02 of the Declaration), and (vi) take all other action on behalf of the Association and vote on all other matters required to be voted on or approved by the members of the Association (except to the extent all members of the Association are entitled to vote on the matters described in item (b) below of this Section 6 and (b) the voting rights of the members of the Association shall be limited to (i) approving increases in the annual Assessments in excess of the amount set forth in Section 10.04(a) and (c) of the Declaration and any special Assessments as provided in Section 10.05 of the Declaration, (ii) approving amendments to the Declaration if such approval is required pursuant to Section 12.02 of the Declaration, and (iii) voting on amendments to the Declaration as provided in Section 12.03 of the Declaration. As long as Developer is the Owner of any Lot or Dwelling in the Development, other than a Dwelling used by Developer for a personal residence, the members shall have no further voting rights or privileges in the Association.

Notwithstanding the above, at such time as Developer no longer owns any Lot or Dwelling within the Development, the remaining Class A Members shall be entitled to vote on all of the foregoing matters subject to any restrictions set forth in the Declaration. For so long as a Class A Member owns any Lot or Dwelling in the Development, other than a Dwelling used by a Class A Member for a personal residence,



(a) that Class A Member shall have the sole and exclusive right to (i) elect the Board of Directors in the Association, (ii) appoint the officers of the Association and the members of the ARC, as defined in the Declaration, (iii) remove and replace any members of the Board of Directors of the Association, the officers of the Association, and the members of the ARC, (iv) amend these Articles of Incorporation and the Bylaws, (v) amend the Declaration (subject to the limitations set forth in Section 12.02 of the Declaration), and (vi) take all other action on behalf of the Association and vote on all other matters required to be voted on or approved by the members of the Association (except to the extent all members of the Association are entitled to vote on the matters described in item (b) below of this Section 6 and (b) the voting rights of the members of the Association shall be limited to (i) approving increases in the annual Assessments in excess of the amount set forth in Section 10.04(a) and (c) of the Declaration and any special Assessments as provided in Section 10.05 of the Declaration, (ii) approving amendments to the Declaration if such approval is required pursuant to Section 12.02 of the Declaration, and (iii) voting on amendments to the Declaration as provided in Section 12.03 of the Declaration. As long as a Class A Member is the Owner of any Lot or Dwelling in the Development, other than a Dwelling used by Class A Member for a personal residence, the members shall have no further voting rights or privileges in the Association. At such time as Class A Member no longer owns any Lot or Dwelling within the Development, the members shall be entitled to vote on all of the foregoing matters subject to any restrictions set forth in the Declaration. The voting rights of any member may be limited and suspended in accordance with the provisions of the Declaration.

#### **ARTICLE 7. Directors.**

(a) Number of Directors. The Board of Directors shall manage the affairs of the Association. The number of Directors constituting the initial Board of Directors shall be **three (3)**. Thereafter, the number of Directors shall be fixed in the manner provided in the Bylaws and may thereafter be increased or decreased from time to time by amendment to or in the manner provided in the Bylaws; provided, however, that (i) the number of Directors shall in no event consist of less than **three (3)** Directors, (ii) no decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director, (iii) as provided in Section 5.02 of the Declaration, Developer shall have the right to elect all members of the Board of Directors of the Association as long as Developer owns any Lot or Dwelling in the Development, and (iv) at such time as Developer no longer owns any Lot or Dwelling in the Development, the members of the Association shall elect a new Board of Directors of the Association as provided in the Declaration. Directors need not be Owners or residents of the State of Georgia. The names and addresses of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Section 7(b) below of these Articles of Incorporation are as follows:

John B. Bagley, Jr., President  
3046 Bold Springs Road  
Monroe, GA 30606

Jack K. Kemp, Vice President  
3046 Bold Springs Road  
Monroe, GA 30606

Joseph B. Fitts, Sr., Vice President  
2180 Sugarloaf Club Drive  
Duluth, GA 30097

(b) Removal. For so long as Developer owns any Lot or Dwelling within the Development, other than a Dwelling used by Developer for a personal residence, Developer shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director or otherwise fill any vacancies on the Board, in each case without any consent or



approval of the members. At such time as Developer no longer owns any Lot or Dwelling within the Development, the members of the Association shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director. Any vacancies which may thereafter arise on the Board shall be filled as provided in the Bylaws.

(c) **Powers.** Except as may be otherwise provided to the contrary in the Declaration, these Articles of Incorporation or the Bylaws of the Association, all powers of the Association shall be exercised by or under authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors.

(d) **Conflicts of Interest.** No contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association or entity in which one or more of its Directors or officers are financially interested, shall be either void or voidable because of such relationship or interest. Any Director of the Association or any corporation, firm, association or entity of which any Director of the Association is a director or officer or is financially interested may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that such relationship or interest in such contract or transaction shall be disclosed or known to the Board of Directors at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or known, any Director so related or interested may be counted in determining a quorum at such meeting and may vote on such matter or action with the same force and effect as if he were not so related or interested. Any Director of the Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he is also a director of such affiliated corporation.

**ARTICLE 8. Incorporator.** The name and address of the incorporator is as follows:

John B. Bagley, Jr.  
3046 Bold Springs Road  
Monroe, GA 30656

**ARTICLE 9. Distribution Of Assets Upon Dissolution.**

(a) Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

(i) Real property contributed to the Association without the receipt of other than nominal consideration by Developer shall be returned to Developer, unless it refuses to accept the conveyance (in whole or in part); and

(ii) Unless otherwise agreed to the contrary in the plan of distribution, all remaining assets shall be distributed among the members of the Association, as tenants in common, with each member's share of the assets to be determined in accordance with its voting rights.

(b) Dissolution of the Association shall be accomplished as set forth in the Georgia Nonprofit Corporation Code.

**ARTICLE 10. Power Of President And Vice President To Execute Documents.** The President and Vice-President of the Association shall each have authority to execute all instruments, documents and contracts on behalf of the Association.

**ARTICLE 11. Indemnification Of Officers, Directors, Employees And Agents.**



(a) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than any action by or in the right of the Association), by reason of the fact that he is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorney's fees) actually and reasonable incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; provided, however, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for willful, deliberate or wanton misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonable entitled to indemnity for such expenses which court shall deem proper.

(c) To the extent that a Director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 11(a) and (b) above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under Sections 11(a) and (b) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the application standard of conduct set forth in Sections 11(a) or (b) above. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by independent counsel in a written opinion, or (3) by a majority vote of the members of the Association.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in Section 11(d) above upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the Association as authorized in this Section 11.



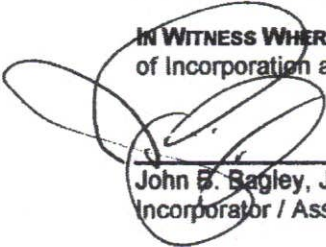
(f) The indemnification authorized by this Section 11 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnification may be entitled under any statute, rule of law, provisions of these Articles of Incorporation, Bylaw, agreement, vote of members of disinterested Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Section 11.

**ARTICLE 12. Amendment.** For so long as Developer owns any Lot or Dwelling within the Development, other than a Dwelling used by Developer as a personal residence, these Articles of Incorporation may be amended at any time and from time to time by Developer or by the vote of the Board of Directors of the Association, without the consent or approval of any of the members of the Association. At such time as Developer no longer owns any Lot or Dwelling within the Development, then these Articles of Incorporation may be amended, subject to the terms and provisions of the Declaration, by the affirmative vote of at least two-thirds (2/3) of the total votes in the Association (i.e., two-thirds [2/3] of all Owners).

**ARTICLE 13. Incorporation By Reference.** All of the terms, provisions, definitions, covenants and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants and conditions set forth herein in these Articles of Incorporation and the Declaration, then the provisions of the Declaration shall at times control.

IN WITNESS WHEREOF, the undersigned Incorporator has hereunto subscribed his name to these Articles of Incorporation as this the 29 Day of April, 2004.

  
\_\_\_\_\_  
John B. Bagley, Jr.  
Incorporator / Association President

  
\_\_\_\_\_  
Witness

**NOTARY:**

I, the undersigned, a notary public in and for said County in said State, hereby certify that Trident, LLC whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 29 day of April, 2003.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

STATE OF GEORGIA  
COUNTY OF Gwinnet

CORPORATIONS DIVISION

MAY - 4 A 8:22

SECRETARY OF STATE

MY COMMISSION EXPIRES  
JANUARY 4, 2008