

ORIGINAL COPY
FILED AND RECORDED
SECRETARY OF STATE OF KENTUCKY
FRANKFORT, KENTUCKY
JUL 15 1985
Pd. 11.30
A.V.

ARTICLES OF INCORPORATION
OF
MALLARD POINT OWNERS ASSOCIATION, INC.

KNOW ALL MEN BY THESE PRESENTS THAT:

D. Fell R. Smith
SECRETARY OF STATE

MARIC DEVELOPMENT CORPORATION, a Kentucky corporation, with its principal offices located at 117 West Second Street, in Lexington, Kentucky, desiring to form a nonstock, nonprofit corporation under the laws of the Commonwealth of Kentucky, as set forth in Chapter 273 of the Kentucky Revised Statutes (hereinafter referred to as "KRS"), does hereby adopt the following Articles of Incorporation:

ARTICLE I

NAME

The name of the Corporation shall be MALLARD POINT OWNERS ASSOCIATION, INC.

ARTICLE II

PERIOD OF DURATION

The Corporation shall have perpetual existence.

ARTICLE III

PURPOSES AND POWERS

Section 3.01. PURPOSES. The nature of the business and purposes proposed to be promoted, transacted and carried on by this Corporation are: to join in, enforce, and carry out the provisions of any declarations of easements, covenants, and restrictions applicable to Lots in the "Mallard Point" Development (and any supplements or amendments thereto, all hereinafter referred to as "Declarations") which may be filed of record in the Office of the Scott County Court Clerk, in Georgetown, Kentucky; to promote the health, safety, and welfare of the members of this Corporation; and, to do or perform any other act or thing permitted or required by law and the Declarations which will promote the common benefit and enjoyment of the properties subject to such Declarations. Each of the foregoing purposes listed or described herein shall be construed as independent purposes and shall not, unless otherwise expressly provided, be limited by reference to, or inference from, the terms of any other enumerated purposes. The enumeration of specific purposes shall not be construed as limiting or restricting in any manner either the meaning of general terms used, or the scope of

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mail to ERIC SMITH
117 W. 2nd St.
LEXINGTON, KY 40507
mailed 7-24-85 to
above address

the general purposes of the Corporation authorized, nor shall the expression of one thing be deemed to exclude another not expressed, although it be of like nature.

Section 3.02. POWERS. The Corporation shall, subject to any specific written limitations or restrictions imposed by the provisions of KRS Chapter 273, or by the Declarations or these Articles of Incorporation, have and exercise the following powers:

Clause (a). Statutory and Ancillary Powers. The Corporation shall have, and exercise all of the powers set forth in KRS Chapters 271A and 273, the same being incorporated herein by reference, including without limitation the powers to:

- 1) Sue and be sued, and complain and defend, in its corporate name;
- 2) Purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated;
- 3) Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets;
- 4) Make contracts and incur liabilities, borrow money at such rates of interest as the Corporation may determine, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income;
- 5) Lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;
- 6) Elect or appoint officers and agents of the Corporation, who may be directors or members, and define their duties and fix their compensation;
- 7) Fix and levy assessments and/or charges upon the Lots and other property (and the owners thereof), the ownership of which is a prerequisite to membership in the Corporation, in accordance with the provisions of the Declarations;
- 8) Enforce any and all covenants, restrictions, obligations, and agreements, applicable to the Lots and property of the Corporation, and the Lots and property (and the owners thereof) the ownership of which is a prerequisite to membership in the Corporation;

- 9) Make and alter bylaws, not inconsistent with these Articles of Incorporation, the Declarations, and/or the laws of the Commonwealth of Kentucky, for the administration and regulation of the affairs of this Corporation; and,
- 10) Do everything necessary, proper, advisable or convenient for the accomplishment of the purposes set forth in Section 3.01, above, and to do any and all other things that are incidental or connected thereto that are not forbidden by the Declarations, the provisions of KRS Chapter 273 (or other law), or by the provisions of these Articles of Incorporation.

Clause (b). Guaranties. The Corporation may make any guaranty respecting indebtedness, interests, contracts, or other obligations created by any domestic or foreign corporations, associations, partnerships, individuals, or other entities; and,

Clause (c). Construction of Powers. Each of the foregoing clauses of this Section and all powers listed, referred to, incorporated, or described therein shall be construed as independent powers, and the matters expressed in each clause shall not, unless otherwise expressly provided, be limited by reference to, or inference from, the terms of any other clause. The enumeration of specific powers shall not be construed as limiting or restricting in any manner either the meaning of general terms used in any of these clauses, or the scope of the general powers of the Corporation created by them, nor shall the expression of one thing in any one of these clauses be deemed to exclude another not expressed, although it be of like nature.

Anything in Section 3.02 or its clauses to the contrary notwithstanding, this Corporation shall neither have nor exercise any power which may be inconsistent with the provisions of the Declarations as the same may be from time to time supplemented or amended as provided therein.

Section 3.03. DIRECTION AND EXERCISE OF POWERS.

Except as may be otherwise provided in the Declarations, the business and affairs of this Corporation shall be managed by a Board of not less than three (3) Directors, which Board shall possess and exercise all powers and authority conferred upon it, and perform all acts and discharge all duties specified or described in the Declarations, KRS Chapter 273, and other applicable law. Directors need not be members of the Corporation. The number of directors may be increased by amendment to the Bylaws of this Corporation; provided, however, that the number shall always be divisible by

three (3) and the terms of all directors, excluding the initial members of the Board, shall be staggered so that in so far as possible the term of one third (1/3) of the members of the Board of Directors shall expire each year.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 4.01. MEMBERSHIP. Each and every person or entity who or which is the owner of record of an interest in any Lot or property in the Mallard Point Development, which Lot is subject by Declaration of record to assessment by this Corporation, shall be a member of this Corporation; provided, however, any person or entity who owns an interest merely as a lessee, or as security for the performance of an obligation, shall not be a member or entitled to membership in this Corporation.

Section 4.02. VOTING RIGHTS. All members of this Corporation shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. If there shall be more than one (1) owner of any Lot, the vote allocated to such Lot shall be collectively cast as the owners thereof shall determine among themselves, provided that no more than one (1) vote may be collectively cast with respect to any one (1) Lot.

ARTICLE V

ADDRESS OF INITIAL REGISTERED OFFICE AND NAME OF INITIAL REGISTERED AGENT

The address of the initial registered office of the Corporation is 117 West Second Street, in Lexington, Kentucky 40507; and, the name of the initial registered agent of the Corporation, an individual resident of Lexington, Kentucky, whose business office is at such address, is ERIC S. SMITH.

ARTICLE VI

DATA RESPECTING DIRECTORS

The initial Board of Directors shall consist of three (3) members. The names and addresses of the persons who are to serve as the initial Board of Directors, until their successors shall be duly elected and qualified, are:

MARK S. SMITH - 620 Cooper Drive, Lexington, KY 40502
ERIC S. SMITH - 131 Wabash Drive, Lexington, KY 40503
ROBERT T. McWHORTER - Delaplain Rd., Georgetown, KY 40324

ARTICLE VII

CONTRACTS OR DEALINGS WITH INTERESTED OFFICERS, DIRECTORS AND/OR MEMBERS

The Corporation may enter into contracts or transact business with one or more of its officers, directors, and/or members, or with any corporation, association, trust company, organization, or other concern in which any one or more of its officers, directors, and/or members are directors, officers, trustees, beneficiaries, or shareholders, or are otherwise interested; and, in the absence of fraud, no such contract or transaction shall be invalidated or in any way affected by the fact that such officers, directors, and/or members of the Corporation have, or may have, interests which are, or might be, adverse to the interests of this Corporation, provided:

Clause (a). Approval by Directors. The contract or transaction is not manifestly unfair to this Corporation, and the fact of such relationship or interest is disclosed or known to the Directors or committee thereof, which authorizes, approves, or ratifies such contract or transaction by a vote or consents sufficient for the purpose, without counting the votes or consents of interested directors;

Clause (b). Approval by Members. The contract or transaction is not manifestly unfair to the Corporation, and the fact of such relationship or interest is disclosed or known to the members entitled to vote, and they authorize, approve or ratify such contract or transaction by the requisite vote or written consent; or,

Clause (c). Fair and Reasonable Contracts. The contract or transaction is fair and reasonable to this Corporation.

In such cases, disclosure of the nature of such interest (though not necessarily the extent or details thereof) shall be sufficient, if such information shall not have been otherwise known to the other members or directors, in which event no further disclosure shall be required. A general notice that an officer, director, or member is interested in any corporation or other concern of any kind above referred to shall be a sufficient disclosure as to the interest of such officer, director, or member with respect to all contracts and transactions with such corporation or other concern. No member shall be disqualified from holding office as an officer or director of the Corporation by reason of any such adverse interests. In the absence of fraud, no officer, director, and/or member having such adverse interests shall be liable to this

Corp Bk 6, Pg. 294

Corporation, or to any member or creditor thereof, or to any other person for any loss incurred by it under, or arising as a result of such contract or transaction, nor shall any such officer, director, and/or member be accountable to any person or entity by virtue of the fact of his adverse interests.

ARTICLE VIII

QUORUM FOR MEETINGS OF MEMBERS

Unless otherwise required by the provisions of KRS Chapter 273, or the Declarations, the presence, in person or by proxy, of not less than ten (10%) percent of all of the members of the Corporation shall constitute a quorum at any meeting of members.

ARTICLE IX

VOTING REQUIREMENT FOR MEMBER ACTION

Unless otherwise required by the provisions of KRS Chapter 273 or the Declarations, at any meeting of members of this Corporation at which a quorum is present, as specified in Article VIII, above, the affirmative vote of not less than fifty-one (51%) percent of the total votes represented at the meeting, in person or by proxy, shall be the act of the members.

ARTICLE X

AMENDMENT

After adoption of the Bylaws for this Corporation by the initial Board of Directors named herein, there shall be no addition to, change in, or alteration or amendment thereof, except by act of the members of this Corporation. The membership shall have the authority to amend all provisions of these Articles of Incorporation, and this Corporation's Bylaws, upon the affirmative vote of seventy (70%) percent of the authorized votes of the members at a meeting duly called for that purpose, written notice of which notice shall be mailed to all members at least twenty (20) days in advance, which shall set forth a time, place, and purpose of the meeting; provided, however, that no amendments to this Corporation's Articles of Incorporation and/or Bylaws shall be made if any such amendments shall be inconsistent with the provisions of the Declarations or the laws of the Commonwealth of Kentucky.

ARTICLE XI

DATA RESPECTING INCORPORATOR

The name and address of the incorporator of this Corporation is: MARIC DEVELOPMENT CORPORATION, a Kentucky corporation, with principal offices located at 117 West Second Street, in Lexington, KY 40507.

ARTICLE XII

NONLIABILITY OF MEMBERS

No member of this Corporation shall be personally liable for any debt or liability of this Corporation, solely by virtue of his membership in this Corporation. A member of this Corporation shall be under no obligation to this Corporation or its creditors, other than the obligation to pay to this Corporation the full amount of assessments and/or charges for which he and the Lot which he owns may become liable pursuant to the provisions of the Declarations.

ARTICLE XIII

ADDITIONS TO PROPERTIES AND MEMBERSHIP

This Corporation may acquire additional members, and additional real property, and merge or consolidate with other corporations or associations with similar purposes, provided that such additions, mergers and/or consolidations shall be authorized by and effected in compliance with the provisions of the Declarations.

ARTICLE XIV

DEDICATION OR TRANSFER OF PROPERTIES

This Corporation shall have the power to dispose of its real properties only as authorized in the Declarations applicable to the property of this Corporation.

ARTICLE XV

DISSOLUTION

This Corporation may be dissolved only with the written consent of the members authorized to vote at least seventy (70%) percent of the votes of the membership. Such a written instrument shall be in conformity with the requirements of the laws of the Commonwealth of Kentucky, so as to permit the same to be recorded in the Office of the Secretary of State and the Scott County Court Clerk, or their respective successors. Any proposal to dissolve this Corporation shall be writing, and a notice of the time and place when and where the proposal to dissolve is to be considered by the membership shall be mailed to every member at least ninety (90) days prior to the said meeting. This Corporation may be dissolved only in the event that

a provision is made for the maintenance care and upkeep of the properties for which this Corporation is responsible, by either acceptance of such responsibilities by a willing and duly authorized governmental entity, or an association or corporation devoted to purposes substantially similar to that of this Corporation, which said governmental entity, association, corporation, or other similar entities shall assume all obligations of this Corporation specified in the Declarations and in these Articles of Incorporation; or, in the event, provision is made for the re-development of the said properties so as to remove the requirement necessity for this Corporation's duties under the Declarations.

ARTICLE XVI

LIMITATION ON CORPORATE ACTION

No action of the Corporation shall be effective to divest or diminish the rights or title of MARIC DEVELOPMENT CORPORATION, or of any member, vested in such party under and by virtue of the Declarations except as may therein be permitted.

ARTICLE XVII

INDEMNIFICATION

Every officer and director of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been an officer or director, or any settlement thereof, whether or not he is or was an officer or director at the time such expenses are incurred, except in such cases wherein the officer or director is adjudged guilty of willful nonfeasance or willful malfeasance in the performance of his duties; provided that, in the event of a settlement without trial or binding arbitration, the indemnification herein shall apply only when the Association, upon recommendation of the Board, has approved such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights to which each officer or director may be entitled. The Board shall be authorized to procure policies of insurance to protect the Association, Board, and officers and directors thereof, against errors and omissions in the performance of their duties, the costs of which shall be deemed common expenses of the Association.

IN WITNESS WHEREOF, the Incorporator has cause these Articles of Incorporation to be executed by a duly authorized officer, in triplicate originals hereof, on this the 15th day of July, 1985.

INCORPORATOR: MARIC DEVELOPMENT CORPORATION

By Mark S. Smith
MARK S. SMITH, President

STATE OF KENTUCKY
COUNTY OF FAYETTE

The foregoing Articles of Incorporation was acknowledged before me by
MARK S. SMITH, President of MARIC DEVELOPMENT CORPORATION, on behalf of
the aforesaid Corporation, on this the 15th day of July, 1985.

My Commission expires: April 16, 1986

Frederick W. Whilenide
NOTARY PUBLIC, STATE AT LARGE, KY.

Prepared by:

Eugene F. Mooney
Attorney at Law
1200 Second National Plaza
Lexington, KY 40507

Eugene F. Mooney
EUGENE F. MOONEY

STATE OF KENTUCKY
COUNTY OF FAYETTE SCT.

I, DONALD W. BLEVINS, CLERK OF
SAID COUNTY COURT HEREBY CER-
TIFY THAT THE FOREGOING INSTRU-
MENT HAS BEEN DULY RECORDED
IN BOOK 129 PAGE 37
IN MY SAID OFFICE

DONALD W. BLEVINS, CLERK
BY Donald W. Blevins D.C.

State of Kentucky
County of Scott, Sct.,

I, Helen Juett, Clerk in and for the County and State aforesaid,
certify that the foregoing Corporation
was this day lodged for record at 2:39 p.m.

Whereupon the same, with the foregoing and this certificate have
been duly recorded in my office.

Witness my hand this 19 day of July, 1985

HELEN JUETT, CLERK
By Donna Perry D.C.

ORDERED TO RECORD
PAID \$3.50 INC. TAX
JUL 16 2 20 PM 1985
DONALD W. BLEVINS
FAYETTE COUNTY CLERK
BY Donald W. Blevins D.C.