

FILED
In the Office of the
Secretary of State of Texas

APR 15 2009

CERTIFICATE OF FORMATION
of
ENCLAVE AT BELLAIRE OWNERS ASSOCIATION
(A TEXAS NONPROFIT CORPORATION)

Corporations Section

I, the undersigned natural person of the age of eighteen (18) years or more, acting as organizer of a corporation under the Texas Business Organizations Code, do hereby adopt the following Certificate of Formation for such corporation.

ARTICLE ONE
NAME

The name of the corporation is ENCLAVE AT BELLAIRE OWNERS ASSOCIATION.

ARTICLE TWO
NON-PROFIT CORPORATION

The corporation is a nonprofit corporation.

ARTICLE THREE
PURPOSES

1. Primary Purpose. The specific and primary purpose for which this corporation is organized is to govern the affairs of that certain property known as Pine Street Townhomes (commonly known as Enclave at Bellaire), a Harris County subdivision, according to the map or plat thereof recorded under Film Code No. 605018 and Harris County Clerk's File No. 20060090583 of the Map Records of Harris County, Texas (the "Enclave at Bellaire").

2. General Powers. The general powers of the corporation are:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the corporation as set forth in that certain instrument entitled "Declaration of Covenants, Conditions, Restrictions and Easements for Enclave at Bellaire" filed or to be filed of record in the Official Public Records of Real Property of Harris County, Texas which does or will upon recordation encumber Enclave at Bellaire (the "Declaration"), as the same may be amended or supplemented from time to time as therein provided;

(b) fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the corporation,

including all licenses, taxes or governmental charges levied or imposed against the property of the corporation; and

(c) have and exercise any and all powers, rights and privileges which a corporation organized under the Texas Business Organizations Code or any successor statute by law may now or hereafter have or exercise, except as may be otherwise limited herein or in the Declaration or Bylaws of the corporation.

3. Limitation of Purpose. Notwithstanding any of the foregoing statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purpose of this corporation as set forth in Paragraph (1) of this Article Three, and nothing contained in the foregoing statement of purposes shall be construed to authorize this corporation to carry on any activity for the profit of its members, or to distribute any gains, profits, or dividends to its members as such, except on dissolution and winding up. This corporation does not contemplate pecuniary gain or profit to the members thereof and is organized for non-profit purposes.

ARTICLE FOUR **MEMBERSHIP**

Each owner, whether one person or more of a Lot in Enclave at Bellaire according to the plat thereof, upon and by virtue of becoming such owner, automatically becomes and shall remain a member of the corporation until ownership of the Lot ceases for any reason, at which time the membership in the corporation shall also automatically cease. Provided, however, regardless of the number of owners per Lot, there shall only be one (1) membership per Lot. Membership in the corporation shall be appurtenant to and shall automatically follow the ownership of each Lot and may not be separated from such ownership.

ARTICLE FIVE **VOTING RIGHTS**

The Corporation shall have two (2) classes of voting membership:

- Class A: All Members of the Association other than ZK Homes, L.P., a Texas limited partnership (the "Declarant") are Class A Members. **DURING THE DEVELOPMENT PERIOD (as defined in the Declaration), CLASS A MEMBERS HAVE NO VOTING RIGHTS WHATSOEVER.**
- Class B: Class B Members are Declarant and Builders. **DURING THE DEVELOPMENT PERIOD (as defined in the Declaration) DECLARANT AND BUILDER SHALL HAVE ONE (1) VOTE FOR EACH BUILDING SITE OWNED.**

ARTICLE SIX
INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the corporation is 4723 Ingersoll Street, Houston, Texas 77027, and the name of its initial registered agent at such address is ZK Homes, L.P.

ARTICLE SEVEN
BOARD OF DIRECTORS

The affairs of the corporation shall be managed by a Board of three (3) directors, who during the Development Period need not be members of the corporation. The number of directors may be changed by amendment of the Bylaws of the corporation. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Lee Zieben	4723 Ingersoll Street Houston, Texas 77027
John M. Kirksey, Jr.	4723 Ingersoll Street Houston, Texas 77027
Richard L. Rose	3 Greenway Plaza, Suite 2000 Houston, Texas 77046

ARTICLE EIGHT
ORGANIZER

The name and street address of the organizer is:

<u>NAME</u>	<u>ADDRESS</u>
Lee Zieben	4723 Ingersoll Street Houston, Texas 77027

ARTICLE NINE
DISSOLUTION

The corporation may be dissolved with the assent of two-thirds (2/3rds) of the members of the corporation with voting rights who are voting in person or by proxy at a meeting of the members of the corporation duly called for such purpose. Upon dissolution of the corporation, other than incident to a merger or consolidation, the assets of the corporation shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this corporation was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any

nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE TEN AMENDMENTS

Amendment of this Certificate of Formation shall require the assent of two-thirds (2/3rds) of the members of the corporation with voting rights who are voting in person or by proxy at a meeting of the members of the corporation duly called for such purpose.

ARTICLE ELEVEN LIMITATION OF LIABILITY: INDEMNIFICATION

1. General. Except for intentional and willful misconduct, knowing violation of the law, or as otherwise required by the Texas Business Organizations Code, no officer or director of the corporation is liable to the corporation or its members, and the corporation is not liable to any member of the corporation, for monetary damages or otherwise for: (i) any act or omission of an officer or director within their official capacity; or (ii) any act or omission by or on behalf of the corporation within the scope of its purposes. THE CORPORATION SHALL INDEMNIFY AND KEEP INDEMNIFIED, AND HOLD HARMLESS, ANY CURRENT OR FORMER OFFICER OR DIRECTOR OF THE CORPORATION TO THE FULLEST EXTENT NECESSARY TO ACCOMPLISH THE FOREGOING AND TO THE FULLEST EXTENT OTHERWISE ALLOWED BY LAW, AND HOLD ANY SUCH OFFICER OR DIRECTOR HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, JUDGMENTS, COURT COSTS, ATTORNEY'S FEES ATTACHMENTS AND ALL OTHER LEGAL ACTION AS CONTEMPLATED THEREBY. ALL PROVISIONS OF THIS ARTICLE ELEVEN ALSO APPLY TO ALL COMMITTEES OF THE CORPORATION AND MEMBERS THEREOF (CURRENT OR FORMER), INCLUDING THE DESIGN REVIEW BOARD (AS THAT TERM IS DEFINED IN THE DECLARATION).

2. Security Services. The corporation will be engaging in activities, devices and services intended to or which may have the effect of enhancing safety or security in Enclave at Bellaire, including activities, devices or services limiting or controlling access to Enclave at Bellaire, or providing of patrol services or otherwise monitor activities within Enclave at Bellaire and may from time to time provide information through newsletters or otherwise regarding same (all such matters and all activities, services or devices of a similar nature or incident thereto herein referred to as, "Security Services"). Without limitation of Paragraph 1. hereof, each member of the corporation understands and agrees by becoming a member of the corporation with respect to any and all Security Services provided directly or indirectly by the corporation as follows:

(a) Personal security is the sole responsibility of local law enforcement agencies and individual members of the corporation.

(b) Any third party providers of Security Services are independent contractors, the acts or omissions of which are not imputable to the corporation.

(c) Providing of any Security Services may never be construed as: (i) an undertaking by the corporation to provide personal security as to any member of the corporation, or as to any other person; or (ii) a representation, guarantee or warranty that the presence of any Security Service will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause.

3. Subsequent Statutory Authority. If the Texas Business Organizations Code, Chapter 84 of the Texas Civil Practice and Remedies Code or any other applicable statute, state or federal, is construed or amended to further eliminate or limit liability or authorizing further indemnification than as permitted or required by this Article Eleven, then liability will be eliminated or limited and right to indemnification will be expanded to the fullest extent permitted by such construction or amendment.

4. No Impairment. Any repeal, amendment or modification of this Article Eleven may not adversely affect any rights or protection existing at the time of the amendment.

ARTICLE TWELVE
WRITTEN CONSENT

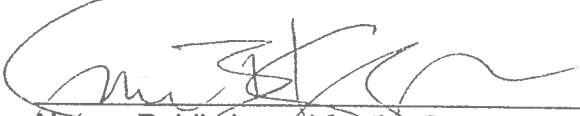
Provided the provisions of Section 22.220 of the Texas Business Organizations Code are fully complied with, any action required by the Texas Business Organizations Code to be taken at a meeting of members, directors, or any committee of the corporation or any action that may be taken without a meeting if a consent in writing setting forth the action to be taken is signed by a sufficient number of members, directors, or committee members as would be necessary to take that action at a meeting at which all of the members, directors, or members of the committee were present and voted.

IN WITNESS WHEREOF, we have hereunto set our hand, this 8th day of April, 2009.

By: Lee Zieben 

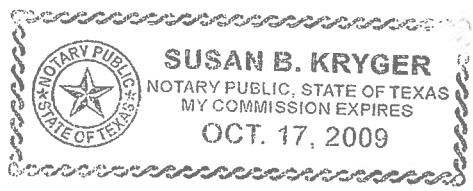
THE STATE OF TEXAS §
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COUNTY OF HARRIS §

This instrument was executed before me on this 8th day of April, 2009 by Lee Zieben for the purposes and consideration expressed therein.



Notary Public in and for the State of Texas

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