

F0844-0477

APPROVED  
 Date 4-18-85  
 Amount \$15

02541

ARTICLES OF INCORPORATION  
OF  
PALMETTO AVENUE HOMEOWNERS ASSOCIATION

The undersigned, a citizen of the United States, desiring to form a corporation, NOT FOR PROFIT, under Sections 1702.01 et seq. of the Ohio Revised Code, does hereby certify:

Article I

Name

The name of the corporation shall be PALMETTO AVENUE HOMEOWNERS ASSOCIATION.

Article II

Location of Principal Office

The place in Ohio where the principal office of the corporation is to be located is the City of Cleveland, County of Cuyahoga.

Article III

Purpose and Powers of the Association

This Association does not contemplate pecuniary gain or profit to the members thereof ("Members"). The specific purposes for which it is formed are to provide for governance, operation, maintenance, and preservation of the Palmetto Avenue community, within that entire tract of land located in the City of Bedford, Ohio (the "Property"), described in Exhibit "A" of the Master Declaration of Covenants, Conditions, Easements and Restrictions of Palmetto Avenue (the "Declaration") made by Martin H. Lax and Ernest Stern Joint Venture, an Ohio Partnership (the "Developer"), and recorded or to be recorded in the Cuyahoga County, Ohio, public records, to promote the health, safety and welfare of the residents within the Property and for this purpose to:

(A) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration, as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at

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length with all definitions of terms set forth therein being applicable to such terms in these Articles;

(B) Fix, levy, collect and enforce payment of by any lawful means all charges and 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 Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(C) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(D) Dedicate, sell or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes;

(E) Have and exercise any and all powers, rights and privileges which a corporation organized under the Corporations Not For Profit Law of the State of Ohio by law may now or hereafter have or exercise and not in conflict with these Articles;

(F) Maintain, repair, replace and operate the Common Areas and the personal property owned by the Association;

(G) Perform such functions and services to the exterior of Townhouse Units as required or permitted by the Declaration;

(H) Purchase insurance upon the Property and the Association and insurance for the protection of the Association and its Members, as well as, purchasing casualty insurance covering each of the Townhouse Units in Palmetto Avenue in an amount equal to the maximum insurance replacement value, excluding foundation and excavation costs;

(I) Reconstruct improvements to the Common Areas and Townhouse Units after casualty and further improve the Common Areas and the Townhouse Units;

(J) Make and amend reasonable rules and regulations respecting the maintenance, upkeep and use of the Common Areas;

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(K) Employ personnel to perform the services required for the proper operation, maintenance and upkeep of the Common Areas and the operation of the Association;

(L) Contract for the management of the Association and the performance of its duties with a third party and delegate to said third party all of the powers and duties of the Association except those required by these Articles or the Declaration to have the approval of the Board or the Members;

(M) Borrow money and to make, accept, endorse, execute and issue debentures, promissory notes or other obligations of the Association for money borrowed or in payment for property acquired or for any of the other purposes of the Association and to secure the payments for such obligations by mortgages, pledges or other instruments of trust by liens upon or assignment of or agreement in regard to all or any part of the property rights or privileges of the Association; and

(N) Do any and all other things and exercise any and all other powers which may lawfully be done or exercised by a corporation not for profit.

#### Article IV

##### Membership

The Association membership shall be composed of Owners of Townhouse Units as defined in the Declaration and Developer and Developer's designated successors and assigns who shall be and remain a member of the Association until such membership is terminated as provided in the Declaration.

#### Article V

##### Voting Rights

Subject to the rights of Developer to control all actions of the Association as provided in the Declaration and/or the By-Laws of the Association, all policy decisions of the Association not made by the Developer shall be made by the Board of Trustees of the Association. Each Trustee shall have one (1) vote.

#### Article VI

##### Board of Trustees

The affairs of this Association shall be managed by a Board of Trustees (the "Board") having three (3) members appointed by the Developer so long as Developer is a member of

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the Association as provided in the By-Laws of the Association. The names and addresses of the Trustees who are to act until the election of their successors are:

Martin Lax                      24801 Rockside Road  
Bedford Heights, Ohio 44146

Ernest Stern                    107 Sixth Street  
1000 Fulton Building  
Pittsburgh, Pennsylvania 15222

Flora Lax                       24801 Rockside Road  
Bedford Heights, Ohio 44146

The initial Board shall serve for one (1) year and thereafter as provided in the By-Laws. At such time as the Developer is no longer a member of the Association, the membership of the Board shall be increased and the Trustees elected as provided in the By-Laws.

#### Article VIII

##### By-Laws

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

#### Article IX

##### Indemnification

Every Trustee and Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by, or imposed upon him, in connection with any proceeding or settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a Trustee or Officer of the Association, whether or not he is a Trustee or Officer at the time such expenses are incurred, but the provisions of this Article shall not apply if a Trustee or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that in the event of a settlement, the indemnification provided herein shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights to which such Trustee or Officer may be entitled.

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Article X

Dissolution

The Association may be dissolved in the manner provided by the laws of Ohio.

Article XI

Term

The term of this Association shall be perpetual.

Article XII

Amendments

Amendments to these Articles shall be proposed and adopted in the following manner:

(A) A notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Board at which the proposed amendment is to be considered.

(B) A resolution for the adoption of the proposed amendment may be proposed only by the Board. Trustees not present in person or by proxy at a meeting considering an amendment may express their approval in writing provided that such approval is delivered to the secretary of the Association at or prior to the meeting. Except as elsewhere provided, amendments to these Articles shall require the assent of two-thirds (2/3) of the members of the Board.

(C) A copy of each amendment shall be filed with the Secretary of State and recorded among the Public Records of Cuyahoga County, Ohio.

(D) Provided, however, that Developer shall have the sole power of amendment of these Articles without the joinder or consent of any Member of the Association or of the Association's Board so long as Developer is a member of the Board.

Article XIII

Transactions in which Officers or  
Directors are Interested

No contract or transaction between the Association and one or more of its Officers or Trustees or between the Association and any other legal entity in which one or more of

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the Officers or Trustees of the Association are interested in any manner, shall be invalid, void or voidable solely for that reason, or solely because an Officer or Trustee of the Association is present at or participates in the meeting of the Board or any committee thereof which authorizes such a contract or transaction, or solely because of the vote of such Officer or Trustee in connection therewith. No Officer or Trustee of the Association shall incur liability by reason of the fact that such Officer or Trustee is or may be interested in any such contracts or transactions. Interested Trustees may be counted in determining presence of a quorum at the meeting of the Board or of any committee thereof, which authorizes contracts or transactions.

#### Article XIV

##### Paramount Provisions

In the event of any irreconcilable conflict between the provisions of these Articles and the provisions of the Declaration, the provisions of the Declaration shall govern and control first and then the provisions of these Articles. However, the Declaration, and these Articles shall, to the extent possible, be read, construed and interpreted so that they are consistent and so that all provisions of each instrument shall be given effect. Defined terms and words in the Declaration shall have the same meaning when used in these Articles.

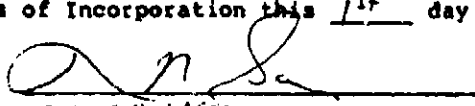
#### Article XV

##### Incorporator

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

Robert N. Sacks, Esq.  
1600 Central National Bank Bldg.  
Cleveland, Ohio 44114

IN WITNESS WHEREOF, for the purposes of forming this corporation under the laws of the State of Ohio, I, the undersigned, constituting the incorporator of this Association, have executed these Articles of Incorporation this 1<sup>st</sup> day of February, 1985.

  
ROBERT N. SACKS

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State of Ohio )  
 ) ss.  
 County of Cuyahoga )

BEFORE ME, a Notary Public, personally appeared Robert M. Seitz to me known to be the person described in and who executed the foregoing instrument and who acknowledged before me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 1<sup>st</sup> day of February, 1985.

Patricia M. Mendenhall  
 Notary Public

PATRICIA M. MENDENHALL, Notary Public,  
 State of Ohio  
 My commission expires Sept. 25, 1986

#### APPOINTMENT OF STATUTORY AGENT

The undersigned, being the incorporator of PALMETTO AVENUE ASSOCIATION, hereby appoints Martin H. Lax, a natural person residing in the County in which Palmetto Avenue Association has its principal office, upon whom any process, notice or demand required or permitted by statute to be served upon the corporation may be served. His complete address is 24801 Rockside Road, Bedford Heights, Ohio 44146. CUYAHOGA COUNTY

Date Feb. 1, 1985

M. H. Lax  
 Incorporator

#### ACCEPTANCE OF APPOINTMENT

Gentlemen:

I hereby accept the appointment as agent of PALMETTO AVENUE ASSOCIATION upon whom process, notices or demands required or permitted by statute to be served upon the corporation may be served.

Martin H. Lax

Date Feb. 1, 1985

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**Kohrman, Jackson & Krantz**  
**Attorneys at Law**

1800 Central National Bank Building  
Cleveland, Ohio 44114

216-696-8700

S. LEE KOHRMAN  
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STEPHEN C. WISNIEWSKI  
GREGORY M. WISNIEWSKI  
KAREL S. MAY  
MARC S. LOEWENTHAL

JOHN F. BALLARD  
DONALD S. SCHERER  
EDWARD W. COCHRAN  
KEVIN T. O'CONNOR  
ABRAHAM J. GILBERGSON

ROBERT N. SACKS  
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SARAH E. MORGENTHAU  
JAY A. GOLDBLATT  
WILLIAM M. PHILLIPS  
DAVID A. PHILLIPS  
JEROME H. COHEN

OF COUNSEL  
STEPHEN R. MALETTE  
RICHARD F. ALLER

MAX I. KOHRMAN 1988  
ALLEN M. MARGOLIS 1988  
R. H. JACKSON 1988

April 12, 1985

Sherrod Brown,  
Secretary of State  
Corporations Division  
State Office Tower  
Columbus, Ohio 43216

Attn: Dan Lissman

Re: Palmetto Avenue Homeowner's Association

Dear Mr. Lissman:

Pursuant to our telephone conversation of April 11, 1985, please find enclosed this firm's check in the sum of \$25.00 to cover the incorporation fees of the Palmetto Avenue Homeowner's Association. Please return the check for \$75.00 that was originally sent under letter dated April 2, 1985. Thank you for your cooperation in this matter.

Very truly yours,

*RNS/jeb*

Robert N. Sacks

RNS:jeb  
Encl.

ENCLOSURE