

ARTICLES OF INCORPORATION

FOR

**FOX CROSSING
HOMEOWNERS ASSOCIATION**

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AZ CORP COMMISSION
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Dec 18 12 57 PM '97
Rita Mesquita
12/10/97
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Nov 20 1 21 PM '97
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FILED
Rita Mesquita
11/20/97

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OF THE
FOX CROSSING HOMEOWNERS ASSOCIATION

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FOX CROSSING HOMEOWNERS ASSOCIATION**

ARTICLE I

NAME

The name of the corporation, which is a nonprofit corporation, is Fox Crossing Homeowners Association and shall be referred to herein as the "Master Association."

ARTICLE II

PURPOSES

The primary purposes for which this corporation is formed are:

- (a) to act as the "Master Association" as defined in, in accordance with and subject to that certain Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for Fox Crossing, to be recorded against certain real property generally located at the northeast corner of Ocotillo Road and Basha Road, Chandler, Arizona, as the same may be amended from time to time (the "Declaration");
- (b) to manage, maintain, preserve and care for the Master Common Areas;
- (c) to perform all of the duties and obligations and to exercise all of the powers and privileges of the Master Association as set forth in the Declaration;
- (d) to provide for the orderly development, maintenance, preservation and architectural control of Master Common Area, Parcel and Lot development, as provided in the Declaration; and
- (e) to do all other things and exercise all powers and rights of a corporation which are lawful and consistent with the foregoing purposes and the nonprofit character of the corporation, including but not limited to the purposes set forth in Section 10-2305(A), Arizona Revised Statutes.

Unless otherwise expressly provided herein, all capitalized terms used in these Articles shall have the meanings set forth in the Declaration. Notwithstanding any other provisions of these Articles, if the corporation elects to qualify under Section 501(c)(4) or Section

501(c)(7) of the Internal Revenue Code of 1986, as amended (the "Code"), the corporation shall not conduct or engage in any activity which would or could result in the revocation of its status as a corporation qualified under such Section of the Code. The corporation does not contemplate securing any gain or profit to the Members of the corporation; the Members shall have no individual interest in the profits of the corporation, if any; and no part of the net earnings of the corporation, if any, shall inure (other than by promoting social and recreational activities for Members, by a rebate of excess membership dues, fees or Assessments, or by acquiring, constructing or providing management, maintenance and care of Master Association property) to the benefit of any Member of the corporation or other individual.

ARTICLE III

INITIAL ACTIVITY

The character of the business the corporation intends to conduct initially shall be to act as a property owners' association performing the duties and exercising the rights of the Master Association set forth in the Declaration.

ARTICLE IV

MEMBERSHIP AND VOTING

The corporation shall be a non-stock corporation. No dividends or pecuniary profits shall be paid to the corporation's Members. Provisions regarding membership in the corporation and voting rights and procedures are set forth in the Declaration and Bylaws, the relevant portions of which are incorporated herein by reference.

ARTICLE V

BOARD OF DIRECTORS

The affairs of the corporation shall be conducted by a Board of Directors. The initial Board and each Board thereafter for so long as there is a Class B Member shall consist of four (4) directors, representing each initial Designated Builder and the Declarant respectively, and one additional Board director shall be added to represent each additional Designated Builder, effective at the time such Designated Builder closes on its Parcel. Commencing with the first annual meeting of the Members when there is no longer a Class B Member, the Board shall consist of, and the voting Members shall elect, a minimum of three and a maximum of seven directors, all of whom must be Members (or individuals designated by corporate, partnership or other nonindividual Members). The term of each director shall be for one year until there is no longer a Class B Member. Thereafter, the initial terms of the directors may be for different terms as set by the Members to obtain a staggered Board if

desired by the Members. In succeeding years, each director shall be elected for a two-year term. Until the first meeting of the Members when there is no longer a Class B Member, and until their successors are designated or elected and qualified, the Class B Members (by majority vote) shall have the right to appoint and remove all directors so long as Declarant and each Designated Builder who is an Owner each continues to have one designated Board representative. The following persons shall constitute the initial Board of Directors of the corporation:

Kevin Vry
40 West Baseline Road
Suite 109
Tempe, Arizona 85283-1259

Todd Wakely
6991 East Camelback Road
Suite C-158
Scottsdale, Arizona 85251

Gene Morrison
1204 East Baseline Road,
Suite 104
Tempe, Arizona 85283

Norm P. McClelland
c/o El Dorado Holdings, Inc. One
Gateway Center
426 North 44th St., Suite 100
Phoenix, Arizona 85008

ARTICLE VI

OFFICERS

Except for the initial officers designated in these Articles, the officers of the corporation shall be elected in accordance with the Bylaws of the corporation. The following persons shall be the initial officers of the corporation:

Norman P. McClelland
Kevin Vry
Gene Morrison
Todd Wakely

President
Vice-President
Secretary
Treasurer

ARTICLE VII

NO PERSONAL LIABILITY

The private property of the Members, directors and officers of the corporation shall be forever exempt from the corporation's debts; provided, however, that each Owner shall be personally liable for any Assessments levied against his, her or its Lot.

ARTICLE VIII

INDEMNIFICATION OF DIRECTORS AND OFFICERS, LIMITATION ON DIRECTORS' LIABILITY

A. To the fullest extent permitted by Arizona law as it may be amended from time to time, the corporation shall defend any and all of its existing and former directors, officers and committee members (including, but not limited to, existing and former members of the Architectural Committee) against claims made against them or any one of them because they were or are directors or officers, and the corporation shall indemnify its directors and officers for liability and expenses incurred as a result of such claims, including but not limited to, legal fees and costs, judgments, penalties and amounts paid in settlement or compromise, which may arise or be incurred, rendered or levied in any legal action brought or threatened against them or any one of them for or on account of any act or omission alleged to have been committed by such person while acting within the scope of his or her employment as a director, officer or committee member of the corporation, whether or not any action is or has been filed against the person and whether or not any settlement or compromise is approved by a court.

B. A director shall have no personal liability to the corporation or its Members for monetary damages for breach of fiduciary duty as a director; provided that the foregoing shall not eliminate or limit the liability of a director for any of the following:

- (a) Any breach of the director's duty of loyalty to the corporation or its Members;
- (b) Acts or omissions which are not in good faith or which involve intentional misconduct or a knowing violation of law;
- (c) A violation of § 10-2326, Arizona Revised Statutes;
- (d) Any transaction from which the director derived an improper personal benefit, including, but not limited to, embezzlement; and
- (e) A violation of § 10-2550, Arizona Revised Statutes.

ARTICLE IX

CONFLICT WITH DECLARATION AND OTHER LIMITATIONS

To the extent that any part or provision of these Articles is contrary to or inconsistent with provisions of the Declaration, the terms and provisions of the Declaration shall prevail. As set forth in the Declaration, the corporation is subject to certain limitations. No amendment hereof, nor any action taken by the corporation pursuant hereto, shall be contrary to, or in conflict with, the limitations set forth in the Declaration, and any such amendment or action shall be void to the extent of such inconsistency.

ARTICLE X

APPROVALS REQUIRED

For as long as there is a Class B Member and if VA or FHA certification is desired by a majority of the Class B Members, the following actions will require the prior approval of the VA and FHA, unless such agencies have waived such requirements or unless the last sentence of this section applies: (i) annexation of additional properties under the Declaration (unless such annexation is in accordance with a plan of annexation or expansion previously approved by such agencies); (ii) mergers and consolidations; (iii) mortgaging or otherwise encumbering Master Common Area; (iv) dedication or other transfer of Master Common Areas; (v) dissolution of the corporation; and (vi) amendment of these Articles, the Declaration or the Bylaws. Consent of the FHA and VA to the foregoing will not be required if the FHA and VA have elected not to approve the subject Parcel (and associated Master Common Areas and Lots) development for certification or if such approval has been revoked, withdrawn, canceled or suspended.

ARTICLE XI

AMENDMENTS

Subject to the provisions of Article VIII and Article IX hereof, the Members may, at any duly noticed and convened regular or special meeting called for such purpose, amend, alter or repeal any provision of these Articles by the affirmative vote of sixty-seven percent (67%) of the votes of all Class A and Class B Members. Anything in this Article to the contrary notwithstanding, Declarant and/or any other Class B Members reserves the right to amend these Articles as may be requested or required by the FHA, VA or any other governmental agency with whom Declarant and/or such Class B Member elects to do business as a condition precedent to such governmental agency's approval of these Articles. Any such amendment shall be effected by Declarant and/or such Class B Member filing with the Arizona Corporation Commission, in accordance with applicable law, a Certificate of Amendment duly executed by Declarant specifying the governmental agency requesting the

amendment and setting forth the requested or required amendment(s). Filing of such a Certificate shall be deemed conclusive proof of the governmental agency's request or requirement and such Certificate, when filed, shall be binding upon the Property and all persons having an interest therein.

ARTICLE XII

BYLAWS

The initial Bylaws shall be adopted by the Board herein designated. Amendments, alterations and repeal of the Bylaws may be made only as provided in the Bylaws. The Bylaws and any amendments thereto shall be valid only if consistent with the Declaration and these Articles.

ARTICLE XIII

KNOWN PLACE OF BUSINESS

The known place of business of the corporation shall be c/o El Dorado Holdings, Inc., One Gateway Center, 426 North 44th Street, Suite 100, Phoenix, Arizona 85008, or such other place as may be designated from time to time by the Board. In addition, different and other offices and places for conducting business, both within and without the State of Arizona, may be established from time to time by the Board.

ARTICLE XIV

STATUTORY AGENT

El Dorado Holdings, Inc., One Gateway Center, 426 North 44th Street, Suite 100, Phoenix, Arizona 85008, is hereby appointed the initial statutory agent of the corporation upon whom all notices and process, including summonses, may be served. The Board may revoke the appointment of such agent at any time, and shall have the power to fill any vacancy.

ARTICLE XV

DISSOLUTION

Upon dissolution of the corporation, or the winding up of its affairs, the assets of the corporation shall be distributed exclusively to one or more public agencies, utilities, non-profit corporations, trusts or other organizations to be devoted to purposes as nearly as is practicable to those to which they were required to be devoted by the Master Association. If the corporation has elected to qualify as a non-profit corporation under Internal Revenue Codes Section 501(c)(4) or 501 (c)(7), then distribution may be only made to permitted

recipients under the applicable Code Section. Subject to the restrictions imposed by the Declaration and by Article IX of these Articles of Incorporation, the corporation may be dissolved with the written consent of not less than two-thirds of each class of Members.

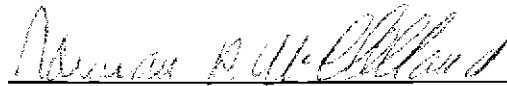
ARTICLE XVI

INCORPORATOR

The name and addresses of the incorporator is:

Norman P. McClelland
c/o El Dorado Holdings, Inc.
One Gateway Center
426 North 44th Street, Suite 100
Phoenix, Arizona 85008

IN WITNESS WHEREOF, the undersigned incorporator has hereunto set his or her hand this 19 day of November, 1997.



Norman P. McClelland, Incorporator

**ACCEPTANCE OF APPOINTMENT
BY STATUTORY AGENT**

The undersigned hereby acknowledges and accepts appointment as statutory agent of the above named corporation, effective this 15 day of November, 1997.

El Dorado Holdings, Inc.

By: K.M. Ingram
Name: K.M. Ingram
Its: President

**ACCEPTANCE OF APPOINTMENT
BY STATUTORY AGENT**

The undersigned hereby acknowledges and accepts appointment as statutory agent of the above named corporation, effective this 18 day of November, 1997.

El Dorado Holdings, Inc.

By: K.M. Ingram
Name: K.M. Ingram
Its: President

ARIZONA CORPORATION COMMISSION
CORPORATIONS DIVISION

Phoenix Address: 1300 West Washington
Phoenix, Arizona 85007-2929

Tucson Address: 400 West Congress
Tucson, Arizona 85701-1347

CERTIFICATE OF DISCLOSURE
A.R.S. §10-202.D

CHECK APPROPRIATE BOX (A OR B)
ANSWER "C"

Fox Crossing Homeowners Association
EXACT CORPORATE NAME

THE UNDERSIGNED CERTIFY THAT:

A. No persons serving either by elections or appointment as officers, directors, trustees, incorporators and persons controlling or holding over 10% of the issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation:

1. Have been convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate.
2. Have been convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses, or restraint of trade or monopoly in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate.
3. Have been or are subject to an injunction, judgment, decree or permanent order of any state or federal court entered within the seven-year period immediately preceding the execution of this Certificate wherein such injunction, judgment, decree or permanent order:
 - (a) Involved the violation of fraud or registration provisions of the securities laws of that jurisdiction; or
 - (b) Involved the violation of the consumer fraud laws of that jurisdiction; or
 - (c) Involved the violation of the antitrust or restraint of trade laws of that jurisdiction.

B. For any person or persons who have been or are subject to one or more of the statements in Items A.1 through A.3 above, the following information MUST be attached:

- | | |
|---|--|
| 1. Full name, prior name(s) and aliases, if used. | 6. Social Security number. |
| 2. Full birth name. | 7. The nature and description of each conviction or judicial action, date and location, the court and public agency involved and file or cause number of case. |
| 3. Present home address. | |
| 4. Prior addresses (for immediate preceding 7-year period). | |
| 5. Date and location of birth. | |

C. Has any person serving as an officer, director, trustee or incorporator of the corporation served in any such capacity or held or controlled over 20% of the issued and outstanding common shares, or 20% of any other proprietary, beneficial or membership interest in any corporation which has been placed in bankruptcy, receivership or had its charter revoked, or administratively or judicially dissolved by any state or jurisdiction?
Yes _____ No

IF YOUR ANSWER TO THE ABOVE QUESTION IS "YES", YOU MUST ATTACH THE FOLLOWING INFORMATION FOR EACH CORPORATION:

- | | |
|---|---------------------------------------|
| 1. Name and address of the corporation. | 3. State(s) in which the corporation: |
| 2. Full name (including aliases) and address of each person involved. | (a) Was incorporated. |
| | (b) Has transacted business. |
| | 4. Dates of corporate operation. |

D. The fiscal year end adopted by the corporation is _____

Under penalties of law, the undersigned incorporator(s)/officer(s) declare(s) that I(we) have examined this Certificate, including any attachments, and to the best of my(our) knowledge and belief it is true, correct and complete. THE SIGNATURE(S) MUST BE DATED WITHIN THIRTY (30) DAYS OF THE DELIVERY DATE.

BY Gene Morrison BY Todd Wakely

PRINT NAME Gene Morrison PRINT NAME Todd Wakely

TITLE Secretary DATE 11/18/97 TITLE Treasurer DATE 11/18/97

DOMESTIC CORPORATIONS: ALL INCORPORATORS MUST SIGN THE INITIAL CERTIFICATE OF DISCLOSURE. If within sixty days, any person becomes an officer, director, trustee or person controlling or holding over 10% of the issued and outstanding shares or 10% of any other proprietary, beneficial, or membership interest in the corporation and the person was not included in this disclosure, the corporation must file an AMENDED certificate signed by at least one duly authorized officer of the corporation.

FOREIGN CORPORATIONS: MUST BE SIGNED BY AT LEAST ONE DULY AUTHORIZED OFFICER OF THE CORPORATION.

ARIZONA CORPORATION COMMISSION
CORPORATIONS DIVISION

Phoenix Address: 1300 West Washington
Phoenix, Arizona 85007-2929

Tucson Address: 400 West Congress
Tucson, Arizona 85701-1347

CERTIFICATE OF DISCLOSURE
A.R.S. §10-202.D

CHECK APPROPRIATE BOX (A OR B)
ANSWER "C"

Fox Crossing Homeowners Association
EXACT CORPORATE NAME

THE UNDERSIGNED CERTIFY THAT:

A. No persons serving either by elections or appointment as officers, directors, trustees, incorporators and persons controlling or holding over 10% of the issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation:



1. Have been convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate.
2. Have been convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses, or restraint of trade or monopoly in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate.
3. Have been or are subject to an injunction, judgment, decree or permanent order of any state or federal court entered within the seven-year period immediately preceding the execution of this Certificate wherein such injunction, judgment, decree or permanent order:
 - (a) Involved the violation of fraud or registration provisions of the securities laws of that jurisdiction; or
 - (b) Involved the violation of the consumer fraud laws of that jurisdiction; or
 - (c) Involved the violation of the antitrust or restraint of trade laws of that jurisdiction.

B. For any person or persons who have been or are subject to one or more of the statements in Items A.1 through A.3 above, the following information MUST be attached:



1. Full name, prior name(s) and aliases, if used.
2. Full birth name.
3. Present home address.
4. Prior addresses (for immediate preceding 7-year period).
5. Date and location of birth.
6. Social Security number.
7. The nature and description of each conviction or judicial action, date and location, the court and public agency involved and file or cause number of case.

C. Has any person serving as an officer, director, trustee or incorporator of the corporation served in any such capacity or held or controlled over 20% of the issued and outstanding common shares, or 20% of any other proprietary, beneficial or membership interest in any corporation which has been placed in bankruptcy, receivership or had its charter revoked, or administratively or judicially dissolved by any state or jurisdiction?

Yes _____ No XX

IF YOUR ANSWER TO THE ABOVE QUESTION IS "YES", YOU MUST ATTACH THE FOLLOWING INFORMATION FOR EACH CORPORATION:

1. Name and address of the corporation.
2. Full name (including aliases) and address of each person involved.
3. State(s) in which the corporation:
 - (a) Was incorporated.
 - (b) Has transacted business.
4. Dates of corporate operation.

D. The fiscal year end adopted by the corporation is _____

Under penalties of law, the undersigned incorporator(s)/officer(s) declare(s) that I(we) have examined this Certificate, including any attachments, and to the best of my(our) knowledge and belief it is true, correct and complete. THE SIGNATURE(S) MUST BE DATED WITHIN THIRTY (30) DAYS OF THE DELIVERY DATE.

BY 

PRINT NAME Gene Morrison

TITLE Secretary

DATE 11/18/97

BY 

PRINT NAME Todd Wakely

TITLE Treasurer

DATE 11/18/97

DOMESTIC CORPORATIONS: ALL INCORPORATORS MUST SIGN THE INITIAL CERTIFICATE OF DISCLOSURE. If within sixty days, any person becomes an officer, director, trustee or person controlling or holding over 10% of the issued and outstanding shares or 10% of any other proprietary, beneficial, or membership interest in the corporation and the person was not included in this disclosure, the corporation must file an AMENDED certificate signed by at least one duly authorized officer of the corporation.

FOREIGN CORPORATIONS: MUST BE SIGNED BY AT LEAST ONE DULY AUTHORIZED OFFICER OF THE CORPORATION.