

State of Florida



Department of State

(EXHIBIT I TO DECLARATION OF CONDOMINIUM
OF WINDCHASE BAY, A CONDOMINIUM)

I certify that the attached is a true and correct copy of the Articles of Incorporation of WINDCHASE BAY CONDOMINIUM ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on May 9, 1983.

The charter number for this corporation is 768325.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
11th day of May, 1983.



George Firestone
Secretary of State

FILED

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

WINDCHASE BAY CONDOMINIUM ASSOCIATION, INC.

(A Florida Corporation Not-for-Profit)

In order to form a corporation not-for-profit under and in accordance with Chapter 617 of the Florida Statutes, we, the undersigned, hereby associate ourselves into a corporation for the purpose and with the powers hereinafter set forth, and to that end, we do, by these Articles of Incorporation, certify and set forth the following:

EXPLANATION OF TERMINOLOGY

The terms contained in these Articles of Incorporation which are contained in the Condominium Act, Chapter 718, Florida Statutes, 1976, as amended prior to the date of the execution of the "Declaration" (as hereinafter defined) shall have the meaning of such terms set forth in such Act, and the following terms will have the following meanings:

A. "Act" means the Condominium Act, Chapter 718, Florida Statutes, 1976, as amended to the date hereof.

B. "Unit" means a unit as described in the Act and is that portion of the Condominium Property which is subject to exclusive ownership.

C. "Unit Owner" means the owner or owners of a Unit and may include a corporation or other legal entity.

D. "Articles" means these Articles of Incorporation.

E. "By-Laws" means (as hereinafter defined) means the By-Laws of the "Association".

F. "Assessment" means a share of funds required for the payment of "Common Expenses" (as hereinafter defined) which from time to time is assessed against a Unit Owner.

G. "Association" means Windchase Bay Condominium Association, Inc., a Florida corporation not-for-profit, organized to administer the "Condominium" and having as its members the Unit Owners.

H. "Board" means the Board of Directors of the Association.

I. "Condominium" means the Condominium initially established by the "Declaration" (as hereinafter defined) and which Developer plans, but is not obligated, to add subsequent Phases to pursuant to the Declaration and "Amendments" thereto.

J. "Common Elements" means the portion of the Condominium Property, including the Land, not included in the Units.

K. "Common Expenses" means expenses for which the Unit Owners are liable to the Association as set forth in various sections of the Act and in the Condominium Documents and includes:

(a) the expenses for the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, cost of fire and extended coverage insurance, cost of managing the Condominium; and

(b) any other expenses designated as Common Expenses in the Condominium Documents or from time to time by the Board.

L. "Condominium Documents" means in the aggregate the Declaration, these Articles, By-Laws and "Rules and Regulations" of the Association and any and all exhibits and amendments thereto and instruments and documents referred to therein and executed in connection with the Condominium.

M. "Condominium Property" means the Phase 1 Land, all improvements thereon, including the Units, the Common Elements, and all easements and rights appurtenant thereto which are intended for use in connection with the Condominium, and is subject to enlargement by the addition of subsequent phases pursuant to the Declaration.

N. "Declaration" means the Declaration of Condominium creating the Condominium.

O. "Developer" means Mitchel Homes, a Partnership, its successors and assigns.

P. "Limited Common Elements" means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units.

Q. "Phase" means a portion of the Condominium as more particularly described in the Declaration.

ARTICLE I

NAME

The name of this Association shall be WINDCHASE BAY CONDOMINIUM ASSOCIATION, INC., whose present address is 2299 Scenic Highway, Pensacola, Florida 32503.

ARTICLE II

A. Statement of the Plan of Phase Development

1. Developer is the owner in fee simple of certain real property located in the City of Pensacola, Escambia County, Florida, more particularly described in Exhibit A to the Declaration (the "Land"). Developer has established the plan set forth in this Article II for the development of the Land (the "Plan"). Developer intends to construct upon the Land twenty (20) residential apartment buildings (the "Buildings") and certain other improvements and to submit the same to condominium ownership as a "phase condominium" pursuant to Section 718.403 of the Act. The initial phase

submitted to condominium ownership by the Declaration is "Phase I". The subsequent nineteen (19) phases which may be submitted to condominium ownership (each of which is referred to as a "Subsequent Phase") pursuant to amendments to the Declaration (each of which is an "Amendment") shall be denominated "Phase 2", "Phase 3", etc. Phase 1 and each Subsequent Phase are individually referred to as a "Phase" or collectively as the "Phases". Phase 1 will contain eight (8) Units. The total number of Units in the Condominium ("Total Units") will be 176 if all twenty (20) Phases are submitted to condominium ownership.

2. Developer reserves the absolute right in its sole discretion to terminate the Plan after the completion of Phase 1 or any Subsequent Phase thereafter. In the event Developer elects to terminate the Plan, Developer shall record amongst the Public Records of Escambia County, Florida, a statement to that effect ("Termination Statement"), which statement shall set forth the revised total number of Units in the Condominium. Such revised total number shall thereupon be the "Total Units" for all purposes. The effect of recording the Termination Statement shall be that the portion of the Land not submitted to condominium ownership pursuant to the Plan as of the recording of such Termination Statement shall no longer be considered part of the Condominium for any reason whatsoever. The requirement of recording the Termination Statement shall be in addition to the notice required by the Act to be given by the Developer to Unit Owners.

3. Developer is also the owner of certain real property upon which Developer intends to construct certain recreational facilities and other improvements for the use by all Unit Owners, if such facilities and improvements are

constructed and added to the Condominium. The real property and improvements (the "Association Area") shall ultimately be Common Elements if the Subsequent Phases that the Association areas are planned to be located on are added to the condominium in accordance with the Declaration. The Association shall be responsible for operating and maintaining the Association Area, if added, the expenses of which shall be shared by all Unit Owners and Sharing Owners, if any, all as set forth in Article IX of the Declaration.

4. It is intended that certain easements shall be established in the Declaration across, over, under and upon the Condominium Property so as to provide to all Members of the Association and Sharing Owners, if any, means of ingress, egress, use, drainage and other purposes with respect to such property.

B. PURPOSE OF ASSOCIATION

The purpose for which this Association is organized is to maintain, operate and manage Windchase Bay and to operate, lease, trade, sell and otherwise deal with the personal and real property thereof and other real and personal property.

ARTICLE III

POWERS

The Association shall have the following powers which shall be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers of a corporation not-for-profit which are not in conflict with the terms of the Condominium Documents or the Act.

B. The Association shall have all of the powers of a condominium association under the Act and shall have all of the powers reasonably necessary to implement the purposes of

the Association, including, but not limited to, the following:

(1) to make, establish and enforce reasonable rules and regulations governing the use of Units, Common Elements and Condominium Property;

(b) to make, levy collect and enforce Annual and Special Assessments against Unit Owners to provide funds to pay for the expenses of the Association and the maintenance, operation and management of the Condominium in the manner provided in the Condominium Documents and the Act and to use and expend the proceeds of such Assessments in the exercise of the powers and duties of the Association;

(3) to maintain, repair, replace and operate the Condominium Property in accordance with the Condominium Documents and the Act;

(4) to reconstruct improvements of the Condominium Property in the event of casualty or other loss;

(5) to enforce by legal means, including by fines, the provisions of the Condominium Documents;

(6) to employ personnel, retain independent contractors and professional personnel, and enter into service contracts to provide for the maintenance, operation and management of the Condominium Property and to enter into any other agreements consistent with the purposes of the Association, and to perform in accordance with the terms of the agreements to management of the Condominium.

(7) to enter into and carry out its duties and obligations under any Easements.

(8) any agreement for professional management of the Condominium, or any other Contract providing for services by the Developer, may not exceed three (3) years. Any such agreement must provide for termination by either

party without cause, and without payment of a termination fee on ninety (90) days or less written notice.

ARTICLE IV

MEMBERS

The qualification of Members, the manner of their admission to membership in the Association, the manner of the termination of such membership and voting by Members shall be as follows:

1. Until such time as the Condominium is submitted to condominium ownership by the recordation of the Declaration amongst the Public Records of Escambia County, Florida, the Members of this Association shall be comprised solely of Developer.

2. Once the Condominium is submitted to the condominium form of ownership by the recordation of the Declaration, the Unit Owners, which in the first instance means Developer as the owner of all the Units, shall be entitled to exercise all of the rights and privileges of Members.

3. Thereafter, membership in the Association shall be established by the acquisition of ownership of fee title to a Unit as evidenced by the recording of an instrument of conveyance amongst the Public Records of Escambia County, Florida, whereupon, the membership in the Association of the prior owner thereof, shall terminate as to that Unit.

4. New Members shall deliver a true copy of the recorded deed or other instrument of acquisition of title to the Association.

5. No Member may assign, hypothecate or transfer in any manner his membership in the Association or his share in the funds and assets of the Association except as an appurtenance to his Unit.

6. Each Unit shall be entitled to only one (1) vote, which vote shall be exercised and cast in accordance with the Declaration and By-Laws.

7. Membership in the Association shall be divided into classes ("Class Members") with the Unit Owners in each Phase constituting a separate Class. Each Class shall be designated by the same arabic numeral used to denote that particular Phase. For example, Unit Owners in Phase 2 of the Condominium are "Class 2 Members".

8. With respect to voting, the following provisions shall prevail:

(a) Either the Membership as a whole shall vote or the Class Members shall vote on a particular item, which determination shall be made in accordance with subparagraphs 7b, and 7c immediately below. However, in any event there shall be only one (1) vote for each Unit, which vote shall be exercised and cast in accordance with the Declaration and By-Laws, and if there is more than one (1) owner with respect to a Unit as a result of the fee interest in such Unit being held by more than one (1) person, such owners collectively shall be entitled to only one (1) vote in the manner determined by the Declaration.

(b) In matters that require a vote, voting shall take place as follows:

(1) Matters substantially pertaining to a particular Phase shall be voted upon only by the Class Members thereof at any meeting having a proper quorum (as determined in accordance with the By-Laws); and

(2) Matters substantially pertaining to the Association or to the Condominium as a whole shall be voted on by the Membership as a whole and shall be determined by a vote of the majority of the Membership in attendance at any

meeting having a quorum (as determined in accordance with the By-Laws).

(c) Any decision as to whether a matter substantially pertains to a particular Phase for purposes of Class Member voting or to the Association or Condominium as a whole for purposes of Membership voting shall be determined solely by the Board. Notwithstanding the foregoing, no action or resolution affecting a particular Phase which the Board determines to require the vote of the Membership shall be effective with regard to that particular Phase unless the Class Members of that Phase shall be given the opportunity to vote on said action or resolution.

ARTICLE V

TERM

The term for which this Association is to exist shall be perpetual.

ARTICLE VI

SUBSCRIBERS

The names and addresses of the Subscribers to these Articles are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Joseph J. Campus III	1765 Esenado Dos Pensacola Beach, FL 32561
Rodney Charles Rotenberry	8213 Whisper Bay Blvd. Gulf Breeze, Florida 32561
O. Frank Rushing, Jr.	506 Dearpoint Drive Gulf Breeze, Florida 32561

ARTICLE VII

OFFICERS

A. The affairs of the Association shall be managed by a President, one (1) or several Vice Presidents, a Secretary and a Treasurer and, if elected by the Board, an Assistant

Secretary and an Assistance Treasurer, which officers shall be subject to the directions of the Board.

B. The Board shall elect the President, the Vice President, the Secretary, the Treasurer and as many other Vice Presidents, assistant Secretaries and Assistant Treasurers as the Board shall from time to time determine appropriate. Such officers shall be elected annually by the Board at the first meeting of the Board; provided, however, such officers may be removed by such Board and other persons may be elected by the Board as such officers in the manner provided in the By-Laws. The President shall be a Director of the Association, but no other officer need be a Director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, the offices of President and Vice President shall not be held by the same person, nor shall the same person hold the office of President who holds the office of Secretary or Assistant Secretary.

ARTICLE VIII

FIRST OFFICERS

The names of the officers who are to serve until the first election of officers by the Board are as follows:

President	Joseph J. Campus III P.O. Box 10055 8231 Northpointe Blvd. Pensacola, FL 32504
Vice President	Rodney Charles Rotenberry P.O. Box 10055 8231 Northpointe Blvd. Pensacola, FL 32504
Secretary	O. Frank Rushing, Jr. P.O. Box 10055 8231 Northpointe Blvd. Pensacola, FL 32504
Treasurer	O. Frank Rushing, Jr. P.O. Box 10055 8231 Northpointe Blvd. Pensacola, FL 32504

ARTICLE IX
BOARD OF DIRECTORS

A. The number of Directors on the first Board of Directors (the "First Board") and the "Initial Elected Board" (as hereinafter defined) shall be three (3), but may be expanded by majority vote of the Board to eleven (11). The number of Directors elected subsequent to the Initial Elected Board, shall be as provided in Paragraph F of this Article IX.

B. The names and addresses of the persons who are to serve as the First Board are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Joseph J. Campus III	P.O. Box 10055 8231 Northpointe Blvd. Pensacola, FL 32504
Rodney Charles Rotenberry	P.O. Box 10055 8231 Northpointe Blvd. Pensacola, FL 32504
O. Frank Rushing, Jr.	P.O. Box 1055 8231 Northpointe Blvd. Pensacola, FL 32504

Developer reserves the right to designate successor Directors to serve on the First Board for so long as the First Board is to serve, as hereinafter provided.

C. When Unit Owners other than Developer (herein defined "Purchaser Members") shall first own fifteen (15%) percent or more of the Total Units, the Purchaser Members shall be entitled to elect one-third (1/3) of the Board, which election shall take place at a special meeting (the "Initial Election Meeting") to be called by the Board, notice of which shall be given within sixty (60) days after the conveyance to Purchaser Members of fifteen (15%) percent or more of the Total Units. Developer shall designate the remaining Directors on the Board at the Initial Election Meeting. The Directors to be so elected by the Purchaser

Members and the Directors to be designated by Developer are hereinafter collectively referred to as the "Initial Elected Board". The Initial Elected Board shall succeed the First Board upon their election and designation. Subject to the provisions of Paragraph D herein, the Initial Elected Board shall serve until the next Annual Members Meeting, whereupon, one-third (1/3) of the Board shall be elected by all the Purchaser Members and the remaining members of the Board shall be designated by Developer. Directors shall continue to be so elected and designated at each subsequent Annual Members Meeting until such time as the Purchaser Members are entitled to elect not less than a majority of the Directors on the Board. Developer reserves the right, until such time as the Purchaser Members are entitled to elect not less than a majority of the Directors on the Board, to designate successor Directors to fill any vacancies caused by the resignation or removal of Directors designated by Developer pursuant to this Paragraph C.

D. Purchaser Members are entitled to elect not less than a majority of the Board upon the happening of any of the following events, whichever shall first occur (the "Majority Election Event"):

1. Three (3) years after fifty (50%) percent of the Total Units have been conveyed to Purchaser Members as evidenced by the recording of instruments of conveyance amongst the Public Records of Escambia County, Florida; or

2. Three (3) months after ninety (90%) percent of the Total Units have been conveyed to Purchaser Members as evidenced by the recording of instruments of conveyance amongst the Public Records of Escambia County; or

3. When all of the Total Units have been completed (as evidenced by the issuance of Certificates of Occupancy for all of same) and some have been sold and none of the others are being offered for sale by Developer in the ordinary course of business; or

4. When some of the Total Units have been conveyed to Purchaser Members and none of the others are being constructed or offered for sale by Developer in the ordinary course of business; or

5. When Developer, as Developer has the right to do at any time, upon written notice to the Association, relinquishes its right to designate a majority of the Board.

6. Notwithstanding the foregoing, the Majority Election event shall occur and Purchaser shall be entitled to elect not less than a majority of the members of the Board of Directors no later than the earlier of the following dates:

(a) 120 days after date on which 75% of the units that will be operated ultimately by the Association have been conveyed to Purchaser Members or,

(b) 7 years after the first conveyance to a Unit purchaser, but in no event no later than January 1, 1990.

E. The election of not less than a majority of Directors by the Purchaser Members shall occur at a special meeting (the "Majority Election Meeting") to be called by the Board, notice of which shall be given within sixty (60) days of the Majority Election Meeting.

F. There shall be three (3) Directors on the Board until the Majority Election Meeting, subject to the provisions of Paragraph A of this Article IX, whereupon, the number of Directors to be elected, designated and to serve on the Board shall be increased to a total of seven (7), except that the number of Directors to serve on the Board may be expanded to a maximum of eleven (11) upon the affirmative approval of a majority of the Board, together with the affirmative approval of one-half (1/2) of all Members. The Purchaser Members shall elect all but but one

(1) Director of said Directors in the manner hereinafter set forth and Developer, until the "Developer's Resignation Event" (as that term is described in Paragraph I of this Article IX) shall be entitled to designate one (1) Director. Developer reserves the right, until the Developer's Resignation Event, to name the successor, if any, to any Director it has so designated.

G. The Board shall continue to be so elected and designated as described in Paragraph F above at each subsequent Annual Members Meeting, until the Annual Members Meeting following the Developer's Resignation Event.

H. The Initial Election Meeting and Majority Election Meeting shall be called by the Association, through its Board, by written notice of meeting given to all Members in accordance with the By-Laws; provided, however, that the Members shall be given at least thirty (30) but not more than forty (40) days' notice of such meeting. The notice shall also specify the number of Directors which shall be elected by the Purchaser Members and the number of Directors to be designated by Developer.

I. Upon the earlier to occur of the following events, Developer, shall cause all of its designated Directors to resign ("Developer's Resignation Event"):

(a) When Developer no longer holds for sale five (5%) percent of the Total Units in the ordinary course of business; or

(b) When Developer, as Developer has the right to do at any time, causes the voluntary resignation of all of the Directors designated by it.

In the event the Developer's Resignation Event occurs after the Majority Election Meeting, then upon the Developer's Resignation Event, the Directors elected by Purchaser

Members shall appoint a successor Director to fill the vacancy caused by the resignation or removal of Developer's designated Director. If, upon the Developer's Resignation event, the Majority Election has not occurred, then, prior to the resignation of the Directors appointed by Developer, the Directors shall call the Majority Election Meeting in accordance with the By-Laws and the Act.

J. At each Annual Members Meeting held subsequent to the Developer's Resignation Event, the Directors shall be elected by the Members of the Association.

K. The resignation of a member of the Board who has been elected or designated by Developer and the resignation of an officer of the Association who has been elected by the First Board or the Initial Elected Board shall remise, release, acquit, satisfy and forever discharge such officer or Director of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Association or Purchaser Members had, now have, or which any personal representative, successor, heir or assign of the Association or Purchaser Members hereafter can, shall or may have against said officer or Director for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the World to the day of such resignation. Members of the Board designated by the Developer do not have to be members of the Association.

ARTICLE X

INDEMNIFICATION

Every Director and every officers of the Association (and the Directors and/or officers as a group) shall be indemnified by the Association against all expenses and liabilities, including counsel fees (at all trial and appellate levels) reasonably incurred by or imposed upon him or them in connection with any proceeding or litigation or settlement in which he may become involved by reason of his being or having been a Director or officer of the Association. The foregoing provisions for indemnification shall apply whether or not he is a Director or officer at the time such expenses are incurred. Notwithstanding the above, in the instances where a Director or officer admits or is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, the indemnification provisions of these Articles shall not apply. Otherwise, the foregoing rights to indemnification shall be in addition to and not exclusive of any and all right of indemnification to which a Director or officer may be entitled whether by statute or common law.

ARTICLE XI

BY-LAWS

The By-Laws of the Association shall be adopted by the First Board, and thereafter may be altered, amended or rescinded in the manner provided for in the By-Laws and the Act. As is set forth in the By-Laws, the By-Laws may be amended by the affirmative vote of not less than a majority of the Members present at an Annual Members Meeting or a special meeting of the Members and the affirmative approval of a majority of the Board at a regular or special meeting of the Board.

ARTICLE XII

AMENDMENTS

A. Prior to the recording of the Declaration amongst the Public Records of Escambia County, Florida, these Articles may be amended only by an instrument in writing signed by all of the Directors and filed in the Office of the Secretary of State of the State of Florida. The instrument amending these Articles shall identify the particular Article or Articles being amended and give the exact language of such amendment, and a certified copy of each such amendment shall always be attached to any certified copy of these Articles and shall be an exhibit to the Declaration upon the recording of any such Declaration.

B. After the recording of the Declaration amongst the Public Records of Escambia County, Florida, these Articles may be amended in the following manner:

1. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting (whether; of the Board or of the Members) at which such proposed amendment is to be considered; and

2. A resolution approving the proposed amendment shall be first passed by either the Board or the Members. After such approval of a proposed amendment by one of said bodies, such proposed amendment must be submitted and approved by the other of said bodies. Approval by the Members must be by a vote of one-half (1/2) of all the Members. Such vote must be taken at a meeting of the membership and approval by the Board must be a majority of the Directors present at any meeting of the Directors at which a quorum (as determined in accordance with the By-Laws) is present.

C. No amendment may be made to these Articles which shall in any manner reduce, amend, affect or modify the

terms, conditions, provisions, rights and obligations set forth in the Declaration.

D. A copy of each amendment shall be certified by the Secretary of State of the State of Florida and recorded amongst the Public Records of Escambia County, Florida.

E. Notwithstanding the foregoing provisions of this Article XII, there shall be no amendment to these Articles which (1) shall abridge, amend or alter the rights of Developer, including the right to designate and select the Directors as provided in Article IX hereof, or the provisions of this Article XII, without the prior written consent therefor by Developer, or, make any changes in the qualifications for Membership nor the voting rights of the Members; or make any change of any of the provision which are for the benefit of the holder of or the insurer of first mortgages on the Condominium or individual Units, or make any change that would terminate the Association or the Condominium, without approval in writing of all Members and the joinder of all record owners of mortgages upon the condominium or upon any apartment.

F. In the event of any conflict between the provisions of these Articles and the provisions of the Declaration, the provisions of the Declaration shall prevail.

ARTICLE XIII

REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is 8231 Northpointe Blvd., Pensacola, Florida, 32504 and the initial registered agent of the Association at that address shall be Joseph J. Campus III, who shall also be resident agent.

STATE OF *Florida*) ss.:

COUNTY OF ESCAMBIA) ss.:

I HEREBY CERTIFY that on this day, before me a Notary Public duly authorized in the State and County named above to take acknowledgements, personally appeared Rodney Charles Rotenberg to me known to be the person described as a subscriber in and who executed the foregoing Articles of Incorporation and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 3rd day of May, 1983.

Jenna M. White
Notary Public
My Commission Expires: July, 1983

STATE OF *Florida*) ss.:

COUNTY OF ESCAMBIA) ss.:

I HEREBY CERTIFY that on this day, before me a Notary Public duly authorized in the State and County named above to take acknowledgements, personally appeared O. Frank Rushing, Jr. to me known to be the person described as a subscriber in and who executed the foregoing Articles of Incorporation and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal this 3rd day of May, 1983.

Cassandra Williams
Notary Public
My Commission Expires: Dec 1, 1984

(Notary Seal)