

DEC. 1. 2008 10:52AM

HOLME ROBERTS & OWENS

AZ Corp. Commission



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AZ CORPORATION COMMISSION  
FILED

ARTICLES OF INCORPORATION

OF

DEC 01 2008

FILE NO. 1491265-4

MITCHELL LOFTS HOMEOWNERS ASSOCIATION,  
an Arizona nonprofit corporation

In compliance with the requirements of § 10-3101, et seq., Arizona Revised Statutes ("A.R.S."), as from time to time may be amended, the undersigned, all of whom are of full legal age, have voluntarily associated themselves on the date set forth below for the purpose of forming an Arizona nonprofit corporation. The undersigned incorporator certifies and adopts the following Articles of Incorporation ("Articles"):

ARTICLE I

NAME AND TERM

The name of the corporation is Mitchell Lofts Homeowners Association ("Association"). The Association will exist perpetually.

ARTICLE II

DEFINED TERMS

The capitalized terms which are used in these Articles and which are without definition in these Articles shall have the meanings specified for those terms in the Condominium Declaration for Mitchell Lofts Condominiums, a Condominium, which has been recorded in the Official Records of Maricopa County, Arizona at 2007-1212350 ("Declaration"). In the case of any conflict between the Articles and the Declaration, the Declaration shall control.

ARTICLE III

KNOWN PLACE OF BUSINESS

The known place of business of the Association is located at 14300 North Northsight Blvd., Suite 219, Scottsdale, Arizona 85260, or at any other location designated by the Board of Directors of the Association.

ARTICLE IV

STATUTORY AGENT

Sandra Marks, whose address is 14300 North Northsight Blvd., Suite 219, Scottsdale, Arizona 85260, is appointed and designated as the statutory agent for the corporation for the State of Arizona, upon whom service of process may be made. This appointment may be

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revoked at any time by the Board of Directors of the Association by the filing of the appointment of another statutory agent.

#### ARTICLE V

##### PURPOSE OF THE ASSOCIATION

The Association shall be the entity through which the Unit Owners shall act. The Association shall provide for the management, maintenance, operation, repair, replacement of the Common Elements, and the cost of management and administration of the affairs of the Association, all as more particularly set forth in the Declaration. The Association shall have the right to finance capital improvements in the Condominium by encumbering future Assessments if such action is approved by the written consent or affirmative vote of Unit Owners holding more than fifty percent (50%) of the total number of eligible votes of the Members of the Association. In furtherance of, and in order to accomplish these objectives and purposes, the Association may transact any or all lawful business for which nonprofit corporations may be incorporated under the laws of the State of Arizona, as these laws may be amended from time to time. All business transacted by the Association will be transacted in a way so as to further its tax-exempt status as an association under the Internal Revenue Code, if the Association so elects to be treated as a tax-exempt organization. The existence of the Association will commence on the date of the filing of these Articles with the Arizona Corporation Commission.

#### ARTICLE VI

##### MEMBERSHIP

Section 6.01. Identity of Members. The Association is a non-stock corporation. No dividends or pecuniary profits will be paid at any time to its Members. Membership in the Association is limited to Unit Owners, and no person may be admitted as a Member in the Association unless that person is a Unit Owner. Declarant is Unit Owner until sale or other transfer of a Unit. By becoming a Unit Owner, the Unit Owner will be considered to have consented to membership in the Association. Upon becoming a Unit Owner, the Unit Owner automatically becomes a Member of the Association and will remain a Member of the Association until the ownership ceases, for any reason, at which time the Unit Owner's membership in the Association will cease automatically.

Section 6.02. Transfer of Membership. Membership in the Association is appurtenant to each Unit, and a membership in the Association may not be assigned, transferred, or conveyed in any way, except: (i) upon the sale of a Unit, and then only to the purchaser; (ii) by intestate succession or testamentary disposition; (iii) foreclosure of mortgage (or similar security instrument) of record; or (iv) other legal process that requires the transfer of the membership. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. Except as expressly permitted under this Section 6.02, no Member of the Association may transfer a membership or any right or privilege associated with membership in the Association.

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**ARTICLE VII**  
**VOTING RIGHTS**

**Section 7.01. Members.** Each Member shall have the voting rights described in the Declaration.

**Section 7.02. Cumulative Voting.** There is no cumulative voting on any matter related to the administration or organization of the Association or its matters.

**Section 7.03. Voting Trusts.** Voting trust agreements of the type described in A.R.S. § 10-3730 are not permitted with respect to the Association and will not be recognized by the Association for the purpose of exercising the voting or approval powers of any one or more of the Members. This prohibition against voting trusts, however, will not act as a prohibition against voting agreements or Member agreements of the type described, respectively, in A.R.S. § 10-3731 and § 10-3732.

**ARTICLE VIII**  
**BOARD OF DIRECTORS**

**Section 8.01. Number and Affairs.** All Association powers will be exercised by or under the authority of the Board of Directors of the Association (sometimes individually or collectively called "Board," "Directors," "Director," or "Board of Directors"). The affairs of the Association will be conducted by the Board and any officers and committees that the Board may elect and appoint. Except for the initial Board that is designated in these Articles and the election of members to the Board during the Period of Declarant Control, the Board of Directors will be elected by the Members. Board of Directors elections may be conducted by mail or any other method permitted in the Bylaws or under Arizona law. During the Period of Declarant Control, the Directors need not be Members of the Association. Upon the termination of the Period of Declarant Control, the Unit Owners shall select the Board of Directors which must consist of at least three (3) members, all of whom must be Unit Owners. The Board may increase the number of Directors on the Board; however, the number of Directors must always be an odd number (except during the Period of Declarant Control, when the number of Directors may equal two) and may not exceed five (5) Directors. The number of Directors constituting the initial Board will be two (2), whose names and addresses of the initial Board of Directors of the Association are as follows:

Name	Mailing Address
Sondra Marks	14300 North Northsight Blvd., Suite 219 Scottsdale, Arizona 85260
Rui Barros	14300 North Northsight Blvd., Suite 219 Scottsdale, Arizona 85260

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The initial Directors will serve one year terms and until their successors have been elected and qualified. Successor Directors to the initial Directors also will serve the one year terms specified above.

### ARTICLE IX

#### GENERAL PROVISIONS

Section 9.01. Incorporator. The name and address of the incorporator of the Association are:

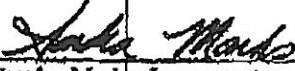
Name	Mailing Address
Sondra Marks	14300 North Northsight Blvd., Suite 219 Scottsdale, Arizona 85260

Section 9.02. Indemnification. To the fullest extent permitted under A.R.S. § 10-3202.B.2., § 10-3302.14, and § 10-3850 *et seq.*, or any successor statute, the Association, on demand, will indemnify, defend, and hold harmless all of its incorporators and any and all of its past, present, and future Directors, officers, Members, employees, and agents for, from, and against all losses, damages, liabilities, claims, expenses, legal fees, judgments, penalties, and settlements arising out of any and all acts or omissions done or omitted while employed by or acting on behalf of the Association. No right, power, or responsibility conferred on the Board, or any officer, employee, or agent of the Association will be construed as imposing any duty or obligation on that person for the purposes of establishing personal liability.

Section 9.03. Limited Liability. Without limitation of the right of the Association to indemnify, neither the Declarant, the Association, any Director, any officer of the Association, Member, nor any employees or agents of the Declarant or the Association will have any liability to any Unit Owner or Occupant for any act or failure to act with respect to any matter if the action taken or the failure to act was: (i) in good faith; and (ii) in a manner reasonably believed to be in the best interests of the Association (if the action taken or failure to act was in an official capacity with the Association) or not opposed to the best interests of the Association (if the action taken or failure to act was not in an official capacity with the Association).

Section 9.04. Limitation on Actions. The ability of the Association to initiate legal proceedings or join as a plaintiff on certain legal proceedings may be limited by the Declaration or the Bylaws. In addition, certain claims, grievances, controversies, disagreements, or disputes involving the Association or its Members may be subject to the alternative dispute resolution procedures established in the Declaration and Bylaws.

For the purpose of forming this nonprofit corporation under the laws of the State of Arizona, the undersigned, constituting the sole incorporator of the Association, has executed these Articles as of November 26, 2008.

  
Sondra Marks, Incorporator

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I, Sondra Marks, having been designated to act as Statutory Agent for Mitchell Lefts Homeowners Association, an Arizona nonprofit corporation, hereby consent to act in that capacity until removed or resignation is submitted in accordance with the Arizona Revised Statutes.

Dated this 26 day of November, 2008.

  
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Sondra Marks