

BY-LAWS  
OF  
MILLERS LANDING HOMEOWNERS ASSOCIATION, INC

ARTICLE I

NAME AND LOCATION. The name of the corporation is MILLERS LANDING HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the association shall be located at 450 N. Sam Houston Parkway East, Suite 152, Houston, Texas, unless otherwise designated by the Board of Directors; but meetings of members and directors may be held at such places as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Millers Landing Homeowners Association, Inc., its successors and assigns.

Section 2. "The Subdivision" shall mean and refer to all of the property described in and subject to the Declaration of Covenants, Conditions and Restrictions for Millers Landing, (including all sections) and any additions thereto subject to the Declaration or any supplemental declaration.

Section 3. "Common Areas" shall mean and refer to the Common Areas as defined and described in the Declaration of Covenants, Conditions and Restrictions applicable to the Subdivision.

Section 4. "Lot" shall mean and refer to each of the lots completed and accepted by the county as shown on the Subdivision Plat or Replats filed or to be filed of record which are incorporated under the subdivision.

Section 5. "Owner" shall mean and refer to the record owner, including any contract seller, whether one or more persons or entities, of the fee simple title to any Lot within The Subdivision, but, notwithstanding any applicable theory of mortgages, shall not mean or refer to any mortgagee unless and until such mortgagee have acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to The Subdivision.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in the Articles of Incorporation and the Declaration.

## ARTICLE III

### MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held no later than two years from the date of incorporation of the Association on a date and at a time to be set by the Board of Directors, and each subsequent regular annual meeting of the Members shall be held annually on a date and at an hour determined by the Board of Directors.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of one-fourth (1/4) of the Members who are entitled to vote.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote, addressed to the member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members and proxies entitled to cast twenty-five percent (25% of the votes of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If however, such quorum shall not be present or represented at any meeting, the Members entitled to vote shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

## ARTICLE IV

### BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors. The original directors of the Association shall be as follows:

Brad Dill, 450 N. Sam Houston Parkway East, Suite 152, Houston, Texas 77060.

Dennis Reilly, 450 N. Sam Houston Parkway East, Suite 152, Houston, Texas  
77060

Mary Daily, 450 N. Sam Houston Parkway East, Suite 264, Houston, Texas 77060

Section 2. Term of Office and Qualification to Serve as Director. At the annual meetings, the members shall elect three (3) directors for a term that lasts until the next annual meeting when the members shall conduct the next election of directors. Other than the original directors named above, only a member in good standing shall be qualified to serve as director.

Section 3. Removal, Resignation or Death and Appointment of Successor. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. A meeting to consider the removal of a director may be called and noticed following the procedures provided in these bylaws. The notice of the meeting shall state that the issue of possible removal of the director will be on the agenda.

In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

## ARTICLE V

### NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles of Incorporation and the Declaration. The person receiving the largest number of votes shall be elected.

## ARTICLE VI

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held annually or more often as the Board deems necessary, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a board meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

Section 5. Meeting by Telephone. The Board of Directors may participate in and hold a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other.

## ARTICLE VII

### POWER AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to do the following:

(a) Adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof.

(b) Suspend the voting rights and right to use of the recreational facilities, if any, of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations.

(c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration.

(d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

(e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to do the following:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote.

(b) As more fully provided in the Declaration, to;

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of such assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are past due or to bring an action at law against the owner personally obligated to pay the same.

(c) Issue, or to cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(d) Procure and maintain liability and hazard insurance on property owned by the Association.

(e) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

(f) Operate, maintain and otherwise manage the Common Areas and any facilities, improvements and landscaping thereon.

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members,

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of vice-president and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

#### President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments, shall co-sign all promissory notes, shall co-sign all checks in the amount of over \$5,000.00, and shall have the power to sign any checks in the amount of under \$5,000.00.

#### Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

#### Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members, keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

#### Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association, shall co-sign all Association checks over \$5,000.00, and shall have the power to sign all checks in an amount under \$5,000.00; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of the fiscal year if the Board of Directors; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

### ARTICLE IX

#### COMMITTEES

The Declarant or Board of Directors shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

### ARTICLE X

#### BOOKS AND RECORDS

Upon written request giving a minimum of two weeks notice to the Association, the books, records and papers of the Association shall, during reasonable business hours, be subject to reasonable inspection for any proper purpose by any Member pursuant to such rules as the Board may from time to time adopt. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

### ARTICLE XI

#### ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. Any assessment which is not paid within thirty (30) days



after the due date will incur a one time late fee in an amount to be set by the Board of Directors. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the highest lawful interest allowable under the laws of the State of Texas. In the event that attorney's fees are incurred in the collection of past due assessments, the fees shall be an obligation of the owner as well as a lien against the land whether or not suit is filed. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, late fees, costs, and attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

## ARTICLE XII

### INDEMNIFICATION

Each director and officer of the Association shall be indemnified by the Association against any costs and expenses including attorneys fees actually and necessarily incurred in connection with the defense of any civil, criminal, administrative or other claim, action, suit or proceeding (whether by or in the right of the association or otherwise) in which he may become involved or with which he may be threatened, by reason of his being or having been a director or officer of the Association, and against any payments in settlement of any such claim, action, suit or proceeding or in satisfaction of any related judgment, fine or penalty upon receipt by the Association of any opinion of independent legal counsel that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the interests of the Association, and in respect of any criminal action, that he reasonably believed that his conduct was lawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create an assumption that the director or officer did not act in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and in respect of any criminal action or proceeding, did not reasonably believe that his conduct was lawful. The foregoing indemnification shall not be deemed exclusive of any other rights to which, any director may be entitled, as a matter of law or otherwise, both as to action in his official capacity and as to action in another capacity while holding each office and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

Notwithstanding the provisions of the preceding paragraph, no person shall be entitled to indemnification pursuant thereto in relation to any matter as to which indemnification shall not be permitted by law.

The Association may purchase and maintain insurance on behalf of any person who is or was an officer or director of the Association against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether

or not the Association would have the power to indemnify him against such liability under the preceding provisions of this Article or applicable provisions of law.

### ARTICLE XIII

#### AMENDMENTS

These By-Laws may be amended by a vote of a majority of the Board of Directors. Such amendment shall be effective immediately, but is subject to challenge within sixty (60) days from the date notice of the amendment is given to the owners. Upon written request of fifty percent (50%) of the members of the Association, a special meeting of the members shall be called for the purpose of voting on the amendment. A vote of sixty percent (60%) of the owners of lots entitled to vote shall be required to nullify the amendment.

These By-Laws may also be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

Also, as long as there is Class B Membership according to the Declaration, the Federal Housing Administration or Veterans Affairs shall have the right to veto amendments.

### ARTICLE XIV

#### MISCELLANEOUS

Section 1. The fiscal year of the Association shall begin on the first day of January and end on the 30th day of December of every year.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control, and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

IN WITNESS WHEREOF, we, being all of the directors of the MILLERS LANDING HOMEOWNERS ASSOCIATION, INC., have hereunto set our hands this 10<sup>th</sup> day of July, 2002.



BRAD DILL

MINUTES OF MEETING  
OF  
BOARD OF DIRECTORS  
MILLERS LANDING HOMEOWNERS ASSOCIATION, INC.  
JULY 10, 2002

The Board of Directors (the "Board") of Millers Landing Homeowners Association, Inc. (the "Association") met in it's initial meeting on July 10, 2002 at 480 North Sam Houston Parkway, East, Suite 110, Houston, Texas with two Board members present, Brad Dill and Dennis Reilly. Also in attendance was Dan Peterson.

Mary Daily is unable to perform her duties as a Director and has resigned. The Board voted unanimously to appoint Dan Peterson to fill her seat.

The Board voted unanimously to approve the Articles of Incorporation filed with the Texas Secretary of State.

The Board voted unanimously to approve the By-Laws of the Association which are attached hereto as Exhibit "A".

The Board voted unanimously to accept the responsibility for maintaining the Detention Pond area for storm water purposes.

The Board voted unanimously not to an annual assessment for the remaining year 2002, or 2003.

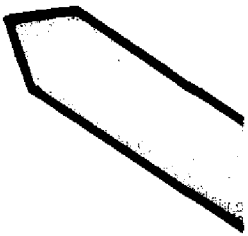
The Board voted unanimously to appoint officers of the Association, as follows: Brad Dill as President; Dan Peterson as Vice President; and, Dennis Reilly as Secretary.

With no other business coming before the Board, the meeting was adjourned.



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Brad Dill, President



**Dennis J. Albright & Associates, P.C.**

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**TELECOPIER/FACSIMILE TRANSMISSION**

Date: February 10, 2003

To: **Dennis Riley**

From: Dennis J. Albright

At Telecopier No.: 281-272-2561

At Telephone No.: 281-272-2560

Subject: Millers Landing

No. of Pages (including this sheet): 11

Message/text:

If you have any questions or comments, please contact me.

Thank you.

enclosure

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**TELECOPIER/FACSIMILE TRANSMISSION**

Date: February 5, 2003

To: **Brad Dill**

From: Dennis J. Albright

At Telecopier No.: 281-272-2561

At Telephone No.: 281-272-2560

Subject: Millers Landing

No. of Pages (including this sheet): 4

Message/text:

If you have any questions or comments, please contact me.

Thank you.

enclosure

*Dennis -  
apply for HUD  
cont.  
Brad*

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February 5, 2003

To: U.S. Department of  
Housing, and Urban Development

**Legal Certification for**  
**Miller's Landing Homeowner's Association**  
**Planned Unit Development**

I am an attorney licensed to practice in the State of Texas. I am not an employee, principal, or officer of Hometown Concepts, Inc. I hereby certify that so far as is known to me, the legal documents (as written on the date of my review) for the above planned unit development that I have reviewed are in compliance with the following HUD requirements:

**I. Articles of Incorporation**

1. Every person or entity who is a record owner of any lot is entitled to membership in the association. Membership is appurtenant to, and inseparable from, ownership of the lot.
2. If the association is dissolved, the assets shall be dedicated to a public body, or conveyed to a nonprofit organization with similar purposes.
3. Amendment of the Articles of Incorporation requires the approval of at least 2/3 vote of the lot owners.
4. Annexation of additional properties, mergers and consolidations, mortgaging of Common Areas, dissolution and amendment of the Articles, requires prior approval of HUD/VA as long as there is a Class B membership.

**II. Declaration of Covenants**

1. A legal description of the Planned Unit Development is contained in the declaration of covenants.

2. All lots in the Planned Unit Development are subject to the covenants.
3. Every owner has a right and easement of enjoyment to the common area, which is appurtenant to the title to the lot.
4. The lien of any assessment is subordinate to the lien of any first mortgage.
5. Mortgagees are not required to collect assessments.
6. Annexation of additional properties, dedication of Common Areas, and amendment of the Declaration of Covenants, Conditions and Restrictions, requires prior approval of HUD/VA as long as there is a Class B membership.
7. Failure to pay assessments does not constitute a default under an insured mortgage so far as is known to me.
8. The covenants assure lot owners of automatic membership and voting rights in the association.
9. Each lot owner is empowered to enforce the covenants.
10. The approval of each at least 2/3 of the lot owners is required to amend the covenants or the articles of incorporation.
11. The common area cannot be mortgaged or conveyed without the consent of at least 2/3 of the lot owners (excluding the developer).
12. If ingress or egress to any residence is through the common area, any conveyance or encumbrance of such area is subject to the lot owner's easement.
13. There is no provisions in the covenants which conflicts with the HUD requirements that the common area shall be conveyed to the association free and clear of all encumbrances before HUD insures the first mortgage in the Planned Unit Development so far is known to me.
14. Absolute liability is not imposed on lot owners for damage to common areas or lots in the Planned Unit Development.
15. The Class B membership (Declarant's weighted vote) ceases and converts to Class A membership upon the earlier of the following:
  - A. 75% of the units are deeded to homeowners.

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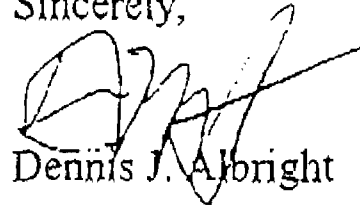
B. January 11, 2011

III. By-laws

1. The By-Laws are consistent with the Articles of Incorporation and the Declaration of Covenants.
2. HUD/VA has the right to veto amendments while there is a Class B membership.

Thank you.

Sincerely,



Dennis J. Albright

DJA:mn

cc: Client