



## Office of the Secretary of State

### CERTIFICATE OF FILING OF

NB CREEKSIDE PROFESSIONAL PLAZA OWNERS ASSOCIATION, INC.  
File Number: 801834941

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 08/15/2013

Effective: 08/15/2013



A handwritten signature in black ink, appearing to read "John Steen".

John Steen  
Secretary of State

**CERTIFICATE OF FORMATION OF  
NB CREEKSIDE PROFESSIONAL  
PLAZA OWNERS ASSOCIATION, INC.**  
a Texas Non-Profit Corporation

FILED  
In the Office of the  
Secretary of State of Texas  
AUG 15 2013  
Corporations Section

I, the undersigned natural person over the age of eighteen years, acting as organizer of a corporation under the Texas Business Organizations Code (the "Code"), do hereby adopt the following Certificate of Formation.

**ARTICLE 1**  
**Condominium Association**

The corporation is, means and constitutes the unit owners' association organized pursuant to Section 82.101 of the Texas Uniform Condominium Act ("TUCA"), which is defined as the "Association" in the Declaration of Creekside Professional Plaza, a Condominium recorded or to be recorded in the Official Public Records of Comal County, Texas, as amended from time to time (the "Declaration") with respect to certain real property located in the City of New Braunfels, Comal County, Texas, locally known as Creekside Professional Plaza (the "Project") and described in the Declaration.

**ARTICLE 2**  
**Name**

The name of the Association is "NB CREEKSIDE PROFESSIONAL PLAZA OWNERS ASSOCIATION, INC."

**ARTICLE 3**  
**Non-Profit**

The Association is a non-profit corporation.

**ARTICLE 4**  
**Duration**

The period of duration of the Association is perpetual.

**ARTICLE 5**  
**Purposes**

The general purposes for which the Association is formed are (i) to exercise the rights and powers and to perform the duties and obligations of the Association in

accordance with the Declaration, the Bylaws of the Association and state law, including TUCA and the Code, as each may be amended from time to time, and (ii) for any lawful purpose not expressly prohibited under Chapters 2 and 22 of the Code.

## **ARTICLE 6** **Powers**

In furtherance of its purposes, the Association has the following powers which, unless indicated otherwise by this Certificate, the Declaration, the Bylaws or state law, may be exercised by the Board of Directors:

1. All rights and powers conferred upon non-profit entities by state law in effect from time to time;
2. All rights and powers conferred upon condominium associations by state law, including TUCA, in effect from time to time; and
3. All powers necessary, appropriate or advisable to perform any purpose or duty of the Association as set out in this Certificate, the Bylaws, the Declaration or state law.

## **ARTICLE 7** **Membership**

The Association is a non-stock membership corporation, the owners of units in the Project being the members of the Association. The qualifications for membership and rights, duties and obligations of members are contained in the Declaration and the Bylaws of the Association. Cumulative voting is not allowed.

## **ARTICLE 8** **Registered Agent and Office**

The name of the Association's initial registered agent is JOHN SEIDEL, and the street address of the Association's initial registered office is 448 S. Seguin Avenue, New Braunfels, Texas 78130.

## **ARTICLE 9** **Management by Board**

The management and affairs of the Association are vested in the Board of Directors, except for those matters expressly reserved to others in the Governing Documents. The Declaration or Bylaws may determine the number and qualification of directors; the term of office of directors; the methods of electing, removing and replacing

directors; and the methods of holding a Board meeting and obtaining consents. Directors may not vote by proxy at meetings of the Board. The initial Board consists of three directors who serve at the pleasure of Declarant during the Declarant Control Period, and who will serve as directors until the earlier of (1) their successors are appointed by Declarant, or (2) their successors are elected by the members of the Association after the Declarant Control Period. The number of directors after the Declarant Control Period is determined by the Bylaws, and may be changed from time to time by amendment of the Bylaws. The name and address of each initial director are as follows:

<u>Name</u>	<u>Address</u>
JOHN SEIDEL	448 S. Seguin Ave., New Braunfels, TX 78130
DUSTIN SEIDEL	448 S. Seguin Ave., New Braunfels, TX 78130
CHRISTINE M. SEIDEL	448 S. Seguin Ave., New Braunfels, TX 78130

#### **ARTICLE 10** **Declarant Control Period**

The Declaration provides for a Declarant Control Period during which Declarant determines the number and qualification of officers and directors, who serve at the pleasure of Declarant, who is empowered by the Declaration to appoint, remove and replace the officers and directors of the Association. The Declaration also determines the weight or number of votes allocated to Units owned by Declarant. Because Declarant has powers, rights and duties in addition to those of other members, Declarant may constitute a membership "class" as described by the Code, the other Unit owners constituting a different "class".

#### **ARTICLE 11** **Terminology**

Capitalized terms used in this Certificate, such as *Association*, *Declarant*, *Declarant Control Period* and *Declaration* have the same meanings as defined in the Declaration. *Governing Documents* has the same meaning as defined in the Code and in this Certificate. As applied to this Association, the following terms which are defined or used in the Code are constructed as follows:

"Governing Documents" as defined by the Code, is construed by the Association to mean the "Project Documents" as defined by the Declaration, even though Project Documents may have been initially adopted by the Declarant of the Property for the benefit and use of the members of the Association, rather than having been adopted by the Association, as indicated by the Code's definition of Governing Documents.

"Each member entitled to vote at the meeting" as used in the Code, is constructed by the Association to mean that if a Unit is co-owned, even though all the co-owners are members of the Association, the co-owners share one membership per Unit for notification and voting purposes. Therefore, votes and memberships are tabulated on a Unit basis, rather than on a head count of owners and co-owners.

## **ARTICLE 12** **Limitations on Liability**

a. Except as provided in Paragraph b below, an officer or director of the Association is not liable to the Association or its members for monetary damages for acts or omissions that occur in the person's capacity as an officer or director, except to the extent a person is found liable for (i) a breach of the officer or director's duty of loyalty to the Association or its members; (ii) an act or omission not in good faith that constitutes a breach of duty of the officer or director to the Association; (iii) an act or omission that involves intentional misconduct or a knowing violation of the law; (iv) a transaction from which the officer or director receives an improper benefit, whether or not the benefit resulted from an action taken within the scope of the person's-office; or (v) an act or omission for which the liability of an officer or director is expressly provided by an applicable statute. The liability of officers and directors of the Association may also be limited by the Charitable Immunity and Liability Act of 1987, Chapter 84, Texas Civil Practice and Remedies Code, as amended (the "Charitable Immunity Act").

b. The limitation on the liability of an officer or director does not eliminate or modify that person's liability as a member of the Association. It is intended that the liability of any member arising out of any contract made by the Association, or out of the indemnification of officers or directors, or for damages as a result of injuries arising in connection with the Common Elements, or for liabilities incurred by the Association, is limited to the same proportion in which he is liable for Common Expenses as a member of the Association.

c. The Board of Directors may purchase directors and officers liability insurance.

## **ARTICLE 13** **Indemnification**

Subject to the limitations and requirements of the Code and as provided by the Bylaws, the Association will indemnify a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a director, officer, committee chair, or committee member of the Association. Additionally, the Association may indemnify a person who is or was an employee,

trustee, agent or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

**ARTICLE 14**  
**Immunity for Volunteers**

To preserve the protections for Association volunteers afforded by the Charitable Immunity Act, the Association will operate in a manner that preserves the Association's status as a homeowners association as defined by Section 528(c) of the Internal Revenue Code of 1986, as amended.

**ARTICLE 15**  
**Amendment of Certificate**

This Certificate may be amended or restated subject to the following:

a. General Provisions. (1) An amendment may not conflict with the Declaration, the Bylaws or applicable state law. (2) An amendment may not impair or dilute a right granted to Declarant or any other person by the Declaration, without Declarant's or that person's written consent. (3) An amendment must be in accordance with applicable provisions of the Code.

b. Amendment by Board. The Board of Directors may unilaterally amend or restate this Certificate, without a vote of the Owners, for the following limited purposes: (1) to delete the names and addresses of the initial directors, (2) to delete the name and address of the initial registered agent or office, provided a statement of change is on file with the Secretary of State, and (3) to change the name of the Association with the Secretary of State by adding, deleting or changing a geographical attribute to the name.

c. Amendment by Members. For all other purposes, an amendment must be approved by the Board and by at least two-thirds of the votes or voting interests present, in person or by proxy, at a properly called meeting of the Association for which a quorum is obtained.

**ARTICLE 16**  
**Amendment of Bylaws**

The Bylaws of the Association may be amended or repealed according to the amendment provision of the Bylaws, which reserve those powers to the members, with limited exceptions for the Board acting alone, or to the Declarant during the Declarant Control Period.

**ARTICLE 17**  
**Action Without Meeting**

Subject to the additional requirements of Code Section 6.202, any action required by the Code or by the Governing Documents to be taken at a meeting of members or Owners may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of members or Owners as would be necessary to take that action at which the required number of Owners or members were present and voted.

**ARTICLE 18**  
**Organizer**

The name of the organizer is JOHN T. DIERKSEN. The organizer's address is 401 Main Plaza, Suite 200, New Braunfels, Texas 78130.

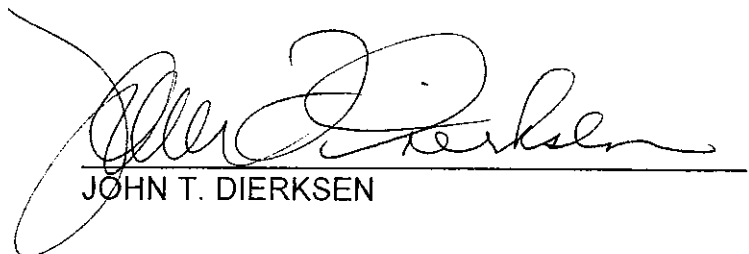
**ARTICLE 19**  
**Effectiveness of Filing**

This document becomes effective as a certificate of filing for a non-profit corporation when the document is filed by the Secretary of State.

**EXECUTION**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

SIGNED this 14th day of August, 2013.

  
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JOHN T. DIERKSEN