

STATE OF ALABAMA)

COUNTY OF SHELBY)

DECLARATION OF ASSOCIATION
OF
BENT RIVER ESTATES OWNERS ASSOCIATION

THIS DECLARATION OF ASSOCIATION OF BENT RIVER ESTATES OWNERS ASSOCIATION, is made this 11TH day of February 1993, by KADCO, INC., an Alabama corporation.

Inst. # 1993-04197

02/12/1993-04197
12:23 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
DOE MCD 19.00

RECITALS:

A. The Owner is the respective owner of 43 Garden Home lots (herein, collectively, the "Lots," or individually, a "Lot") located in Shelby County, Alabama:

Owner

Lots Owned

Kadco, Inc.

7,8,9,10,11,12,13,14,15,16,17,18,19,
20,21,22,23,24,25,26,27,28,29,30,31,
32,33,34,35,36,37,38,39,40,41,42,43,
44,45,46,47,48,49, Bent River Estates
located in the West 1/2 of the SE 1/4
of Section 17 Township 19S Range
2 West.

B. The Owner desires to enter into this Agreement to set forth its agreement and understanding regarding the operation, management, maintenance, control and administration of the Private Sewer Lines as defined in that certain Private Sewer Agreement dated February 11 1993, executed by the Owner, which is recorded contemporaneously herewith and is referred to herein as the "Private Sewer Agreement."

NOW THEREFORE, in consideration of the Recitals, Ten Dollars (\$10.00), and other good and valuable consideration, the parties hereto agree as follows:

1. Association Name. The name of the Association shall be Bent River Estates Owners Association, and shall be referred to herein as the "Association."

2. Association Purpose. The purpose of the Association is to create an entity for the operation, management, maintenance, control and administration of the Private Sewer Lines described in said Private Sewer Agreement.

3. Association Powers. The powers of the Association shall be, without limitation, the following:

Mailing address: 1945 Hoover Court
Hoover, AL 35226

- (a) To maintain and repair the Private Sewer Lines;
- (b) To contract for the repairs and maintenance of the Private Sewer Lines;
- (c) To lease or grant temporary easements or licenses for the repair and maintenance of the Private Sewer Lines in a manner not inconsistent with the rights of Owners;
- (d) To make and collect assessments against the Owners as provided in the Private Sewer Agreement in order to allocate the costs and expenses of repairing and maintaining the Private Sewer Lines and to use the proceeds of the assessments in the exercise of the powers and duties herein provided;
- (e) To enforce by legal means the provisions of the Private Sewer Agreement, including but not limited to collection of allocated costs and expenses as set forth in the Private Sewer Agreement;
- (f) To act as the representative of the Owners with Jefferson County officials regarding the Private Sewer Lines;
- (g) To make and amend reasonable rules and regulations respecting the use of the Sewer Lines as necessary;
- (h) To exercise all powers as shall enable the Association to do each and every thing necessary, suitable, convenient, expedient or proper for the accomplishment of any or all purposes and the attainment of any or all objects set forth in any of the provisions of the Declaration;

4. Membership in the Association. The members of the Association shall consist of all the Owners and their heirs, successors and assigns. Membership in the Association shall be evidenced by a deed or other instrument establishing a record title to a Lot noted in section A above, in the Probate Office of Shelby County, Alabama, and the delivery to the Association of a certified copy of such instrument. Upon such delivery, the owner of the Lot designated by such instrument shall become a member of the Association and the membership of the prior owner shall be terminated.

5. One Vote Per Lot. The owner of each Lot shall be entitled to one (1) vote for each Association decision regarding sections 6 and 7 below.

6. Decisions by Majority Rule. Majority vote among the Owners shall control all decisions as to repair and maintenance of the Private Sewer Lines.

7. Elections and Duties of the President. The affairs of the Association shall be managed by a President who shall be elected by a majority vote of the Owners. The vote shall take place in June of each year. The term shall begin on July 1st and end on the following June 30th.

The President's duties shall include, with limitation, the following:

(a) To represent the Association in all negotiations and other dealings regarding the Private Sewer Lines with Jefferson County, Alabama (herein, the "County"). The President shall notify the Director of Environmental Services for the County that he is the contact person for the Association within one (1) week of his election as such President.

(b) To act as the representative of the Association in the execution of its functions as described herein and in the Private Sewer Agreement. All correspondence should be directed to the President's attention and address.

(c) To organize the election of the subsequent President as follows:

In the last month of the President's term, the President shall accept nominations from the Owners for a President-elect for the next term. The President shall list nominees in a letter which will be copied and delivered to each Owner for his vote. Each Owner shall return his ballot to the outgoing President who will tally the votes and inform the Owners, including the new President, of the decision.

A vacancy in the office of the President during the course of the term shall be filled by the affirmative vote of a majority of the Owners organized by the most recent past President in the same manner as described above for regular annual elections.

A President may be removed, either with or without cause, at any time, by the affirmative vote of the majority of the Owners at a meeting called by any Owner for that purpose, and the vacancy in the Office of President caused by any such removal may be filled by an affirmative vote of a majority of the Owners at such meeting.

8. Interim Address for the Association. Until the first President is elected, the address to be used for the Association is:

Bent River Estates Owners Association
c/o Kadco, Inc.
1945 Hoover Court
Birmingham, Alabama 35226

9. Timely Payment of Allocated Costs and Expenses Required.

(a) Each Owner agrees to pay his allocated share of costs and expenses, as set out in the Private Sewer Agreement, in a timely manner.

(b) Upon approval of expenditures by a majority of the Owners as per the Private Sewer Agreement, the President shall authorize the repair or maintenance so approved, oversee the execution of the work to completion, approve the related invoice(s) for payment, and send a copy of the invoice(s) along with a calculation of the allocation of the invoice(s) to each Owner.

(c) Each Owner shall pay his respective allocation of costs and/or expenses ("Allocations") to the President within one (1) week of the Owners receipt of the allocated invoice.

(d) The payment of the Allocations due to the Association shall be in default if such payment is not received by the President as described in (c) above (Delinquent Payment(s)).

All Delinquent Payment(s) due the Association shall bear interest at six percent (6%) per annum or the maximum legal rate on judgments until such Delinquent Payment(s) and all interest due thereon shall be paid in full. The Association shall be entitled to a lien against the Owner's Lot for the amount of the Delinquent Payment(s). Said lien shall secure and does secure the monies due for all Allocations now and hereafter levied against the Owner of each Lot, and also interest, if any, which may be due on the amount of any Delinquent Payment(s). Said lien shall also secure all costs and expenses, including reasonable attorney's fees, incurred by the Association in enforcing the lien on said Lot. The lien granted to the Association may be foreclosed in the same manner as real estate mortgages in the State of Alabama.

All persons, partnerships, associations, firms or corporations, who shall acquire, by whatever means, any interest in the ownership of any Lot or who may be given or acquire a mortgage, lien, or other encumbrance thereon are hereby placed on notice of the lien rights granted to the Association and shall acquire such interest in any Lot expressly subject to any lien.

The lien herein granted to the Association shall be effective from and after the time of recording by the Association in the Probate Office of Shelby County, Alabama, a claim of lien stating a description of the Lot encumbered thereby, the name of the record Owner, the amount due, and the date when due. The lien shall continue in effect until all sums secured by said lien, as herein provided, shall be fully paid. Such claims of lien shall include only Allocations which are due and payable when the claim of lien is recorded, plus interest and other costs and advances, as provided above. Such claims of lien shall be signed by the President of the Association. Upon full payment of all sums secured by such lien, the same shall be satisfied of record at the Lot Owner's cost. The claim of lien filed by the Association shall be subordinate to the lien of any mortgage or other lien recorded prior to the time of recording the Association's claim of lien.

10. Right to Indemnify the President. The Association shall have the right to indemnify each person who shall serve as President or agent of the Association, or shall serve at the request of the Association in a similar capacity with another corporation, joint venture, trust, or other enterprise, to the extent to which this Association is granted the power to so indemnify such persons by any and every statute of the State of Alabama or act of the Legislature of the State of Alabama.


11. Contracts of the Association are Valid. No contract or other transaction between the Association and any person, firm, association or corporation and no other act of the Association shall, in the absence of fraud, be invalidated or in any way affected by the fact that the President or the Association is directly or indirectly, pecuniarily or otherwise interested in such contract, transaction or other act, or related to or interested in (either as director, stockholder, officer, employee, member or otherwise) such person, firm, association or corporation.

WHEREFORE, the Owners sign this, their Declaration of Association, so that the Association may be deemed to be organized for the purposes herein set out.

IN WITNESS WHEREOF, the undersigned have hereunto subscribed their signatures to this Declaration of Association this 11th day of February 1993.

KADCO, INC.
a corporation

BY:


Charles G. Kessler, Jr.
As President

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles G. Kessler, Jr., whose name as President of Kadco, Inc., an Alabama corporation, is signed to the foregoing Declaration of Association, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Declaration of Association, he, as such Officer and with full authority, executed the same voluntarily for and as the act of said corporation of the day the same bears date.

Given under my hand and official seal of the office this 11th day of February 1993.

Jane B. Richardson
Notary Public

My commission expires: 3/13/96

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SHELBY COUNTY JUDGE OF PROBATE

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