

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of the	)	
Branson Cedars Resort Utility	)	
Company, LLC, for a Certificate of	)	File Nos. WA-2015-0049
Convenience and Necessity Authorizing	)	and SA-2015-0107
It to Own, Operate, Maintain Control and	)	
Manage Water and Sewer Systems in	)	
Taney County, MO.	)	

**BRANSON CEDARS, INC. PETITION TO INTERVENE**

COMES NOW, Branson Cedars, Inc. (for ease of reference due to the similarity to applicant's name, referred to herein as "BCI"), pursuant to 4 CSR 240-2.075, and for its application to intervene in the above-captioned proceeding, respectfully states as follows to the Missouri Public Service Commission ("MPSC" or "Commission").

1. BCI was duly incorporated under the laws of the State of Missouri as a nonprofit corporation on October 21, 2009. BCI is a mutual benefit association comprised of owners of lots within the subdivision known as Oakmont Hills in Taney County, Missouri. BCI was organized and formed to provide for the general welfare, maintenance, preservation and administration of certain portions of the subdivision over which it has control, including any amenities, private roads, systems or other common areas, and to promote the organization, stability, viability, health, safety and welfare of the subdivision and lots owned by the members.<sup>1</sup> BCI's registered agent's office, CECB Registered Agent, Inc., is located at 2805 S. Ingram Mill, Springfield, Missouri, 65804.

---

<sup>1</sup> See Articles of Incorporation of Branson Cedars, Inc., attached hereto as **Exhibit A**.

2. On August 15, 2014, the applicant filed an application for a certificate of convenience and necessity to operate a water utility in Case No. WA-2015-0049. Subsequently, the Commission directed applicant to file an amended application that was submitted on August 21, 2014. The intervention deadline for the water application has passed, and BCI has no intervention interest in that proceeding. On October 29, 2014, applicant filed its application for sewer service which was docketed as Case No. SA-2015-0107. BCI does, however, have an interest in Case No. SA-2015-0107.

3. On November 3, 2014, the Commission issued an Order directing notice of the application in Case No. SA-2015-0107 and establishing an intervention date of December 3, 2014. On November 6, the Commission Staff filed a motion requesting that the Commission extend its deadline to file Staff's recommendation in Case No. WA-2015-0049 to match Case No. SA-2015-0107, and consolidating the two actions. The Commission issued an Order granting Staff's motion on November 6, 2014.

4. BCI should be granted intervention in this proceeding because it has an interest that differs from the general public that may be adversely affected by a final order in this proceeding, as provided by 4 CSR 240-2.075. Despite the confusingly-similar names of BCI's (Branson Cedars, Inc.'s) owner's association and applicant Branson Cedars Resort Utility Company, LLC, the two entities are unrelated.<sup>2</sup> BCI and its members own forty (40) lots within the subdivision that is presently served by the current sewer treatment plant. Three lots within the subdivision are owned by Branson Cedars Resort Utility Company. Despite applicant's claims that the present sewer treatment plant is "inadequate for the development at hand,"<sup>3</sup> and requires

---

<sup>2</sup> Branson Cedars Resort Utility Company, LLC was formed in 2013.

<sup>3</sup> See Application at ¶ 3.


upgrades until such time as the Turkey Creek extension is completed, BCI disagrees that the proposed upgrades are necessary at this time.

5. BCI is concerned that any over-subscription or over-capacity of the present sewer treatment facility may be due to the applicant's development efforts, and not due to any inherent inadequacies in the current facility. Further, BCI believes that its members will have the ability to interconnect with the Turkey Creek extension upon its completion, without the involvement of applicant. BCI and its members would like to ensure that they do not overpay the utility for the costs to interconnect with the Turkey Creek extension. Thus, BCI is hesitant to acquiesce to an expansion of the current sewer treatment facility that may or may not be necessary, and incur the additional costs associated with such an expansion, if it will have alternative, lower-cost options for sewer facilities in the very near future. BCI suggests that the applicant must demonstrate that the proposed upgrades are necessary for the provision of sewer treatment facility services, are feasible, and are consistent with the public interest.

6. BCI asserts that, consistent with 4 CSR 240-2.075, its interests in this proceeding cannot be adequately represented by any other party and that its intervention will provide a valuable perspective for the Commission and the parties regarding the issues raised in this docket.

WHEREFORE, BCI respectfully petitions the Commission for intervention in the above-captioned matter.

Respectfully submitted,

  
\_\_\_\_\_  
Michael D. Textor (#45675)  
Polsinelli PC  
Hammons Tower  
901 St. Louis Street, Ste. 1200  
Springfield, MO 65806

(417) 869-3353  
[mtextor@polsinelli.com](mailto:mtextor@polsinelli.com)

Anne E. Callenbach (#56028)  
Polsinelli PC  
900 W 48<sup>th</sup> Place, Suite 900  
Kansas City, MO 64112  
(816) 572-4754  
[acallenbach@polsinelli.com](mailto:acallenbach@polsinelli.com)

ATTORNEYS FOR BRANSON CEDARS, INC.

**VERIFICATION**

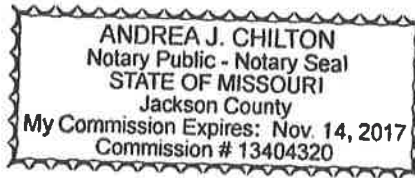
STATE OF MISSOURI            )  
  ) SS  
COUNTY OF JACKSON        )

I, Anne E. Callenbach, being first duly sworn, do hereby certify, depose and state that I am the attorney for Branson Cedars, Inc. , which seeks intervention in the above captioned proceeding before the Missouri Public Service Commission; that I have read the above and foregoing Application to Intervene and the allegations therein contained are true and correct to the best of my knowledge, information and belief; and I further state that I am authorized to verify the foregoing Application by the above said applicant to intervene.

  
\_\_\_\_\_  
Anne E. Callenbach

Subscribed and sworn to before me, a Notary Public this 3<sup>rd</sup> day of December, 2014.

  
\_\_\_\_\_  
Notary Public



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via email on this 3<sup>rd</sup> day of December, 2014, to all parties.

File Number:  
N01005370  
Date Filed: 10/21/2009  
Robin Carnahan  
Secretary of State

**ARTICLES OF INCORPORATION  
OF  
BRANSON CEDARS, INC.**

HONORABLE ROBIN CARNAHAN  
SECRETARY OF STATE  
JEFFERSON CITY, MISSOURI 65101

The undersigned, being a natural person of the age of twenty-one (21) years or more and a citizen of the United States, for the purpose of forming a corporation under the "Missouri Nonprofit Corporation Act", hereby adopts the following Articles of Incorporation.

ARTICLE I  
NAME

The name of this corporation is BRANSON CEDARS, INC. (the "Association").

ARTICLE II  
BENEFIT

The Association is a mutual benefit corporation.

ARTICLE III  
ADDRESS

The address of its initial registered office in the State of Missouri is 2805 S. Ingram Mill, Springfield, MO 65804 The Registered Agent at that address is CECB Registered Agent, Inc.

ARTICLE IV  
INCORPORATOR

The initial incorporator of this corporation is Russell W. Cook, whose address is 2805 S. Ingram Mill, Springfield, MO 65804.

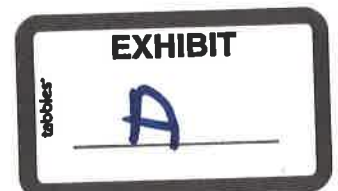
ARTICLE V  
MEMBERS

The undersigned owners of lots within the subdivision now or hereafter developed as OAKMONT HILLS , in Taney County, Missouri (the "Subdivision") are the initial members of the Association (the "Charter Members"). Any person or entity that becomes an owner of a Lot that contains a cabin (or other dwelling as determined by the Board) within the Subdivision who is also sponsored by a Charter Member or a member of the Executive Board and is approved by fifty percent (50%) of the then-current membership shall be a member ("Member") of the Association. The Procedures for accepting new Members are set forth in the By-Laws.

State of Missouri  
Creation - NonProfit 3 Page(s)



T0929419505



ARTICLE VI  
BOARD

The names and addresses of the initial Executive Board are as follows:

<u>NAME</u>	<u>ADDRESS</u>	<u>CITY/STATE</u>
Darin Lauer	24550 S. Meadow Circle Dr.	Claremore, OK 74019
Gene Eisenmann	3850 W. Cressant Way	Frisco, TX 75034
John Quatrini	6527 E. Greythorn Dr.	Scottsdale, AZ 85266

The procedures for appointing and electing new members of the Executive Board ("Board") are set forth in the By-Laws. The number of directors may be increased or decreased from time to time, by action of the Board as described in the By-Laws.

ARTICLE VII  
PURPOSE

The purpose or purposes for which this corporation is organized are to provide for the general welfare, maintenance, preservation and administration of certain portions of the Subdivision over which the Association now or hereafter has control, including any amenities, private roads, systems or other common areas, and further, to promote the organization, stability, viability, health, safety and welfare of the and Lots owned by the Members and the Membership.

For these purposes the Association shall have the right and responsibility to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as described in the By-Laws. In addition the Association shall have all of the following rights:

(a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association.

(b) To fix, levy, collect and enforce payment by any lawful means, all charges or assessments; to pay all expenses in connection therewith, including but not limited to, expenses for maintenance of and improvements to the real and personal property owned, leased or administered by the Association; expenses including legal fees and court costs incurred in connection with the purposes described herein, and the enforcement of the Articles and By-Laws of the Association, and expenses for any services provided to the Association membership, and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association.

(c) To acquire (by gift, purchase or otherwise) own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

(d) To borrow money and to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred thereby.

(e) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Law of the State of Missouri may now or hereafter have or exercise.

(f) To have and to exercise any and all powers, rights and privileges which a corporation is granted under the Missouri Nonprofit Corporation Act, as may be amended from time to time.



(g) To promote the general welfare of the Members and their Lots, including but not limited to securing the ability, right and authority to lease, operate, and maintain private roads, amenities including swimming pools, clubhouse, walking trails, and other common areas, and water system and sewer system, as the Members determine from time to time.

The foregoing notwithstanding, no substantial part of the activities of the Association shall be devoted to attempting to influence legislation by propaganda or otherwise within the meaning of the prescriptive provisions of the Internal Revenue Code of 1986, as amended. The Association shall not directly or indirectly, participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE VIII  
NON-PROFIT

This corporation shall be a nonprofit organization. It is intended that the Association qualify and be taxed as a property owners' association within the meaning of §528 of the Internal Revenue Code of 1986, as amended. No part of the property or net earnings of the corporation shall be distributed to, used for or inure to the benefit of any private member, director, individual, firm or corporation whomsoever.

ARTICLE IX  
VOTING RIGHTS

Except as otherwise provided herein, all Members of the Association shall be allocated and entitled to one (1) vote for each Lot of which the Member is the Owner. If there are more than one Owner of a Lot, then those Owners must designate one (1) of their number as the voting Member for that Lot, which designation shall be made in writing to the Board. After one (1) of the Owners is designated, the Board shall have the right to rely on that designation until a written notice signed by all Owners of that Lot revoking the appointment is received by the Board.

ARTICLE X  
CONTINUATION

If, at any time, this Association shall cease to carry out the purposes as herein stated, all assets held by it, whether in trust or otherwise, shall, after payment of its liabilities, be paid over to an organization which itself has similar purposes and analogous activities, and which has established an appropriate tax exempt status under the Internal Revenue Code of 1986, as amended.

ARTICLE XI  
DURATION

The term of this corporation is perpetual.

IN WITNESS WHEREOF, the Articles of Incorporation have been signed on this 21<sup>st</sup> day of October, 2009.

  
\_\_\_\_\_  
Russell W. Cook

“Incorporator”

# State of Missouri



Robin Carnahan  
Secretary of State

## CERTIFICATE OF INCORPORATION MISSOURI NONPROFIT

WHEREAS, Articles of Incorporation of

*BRANSON CEDARS, INC.*  
*N01005370*

have been received and filed in the Office of the Secretary of State, which Articles, in all respects, comply with the requirements of Missouri Nonprofit Corporation Law;

NOW, THEREFORE, I, ROBIN CARNAHAN, Secretary of the State of Missouri do by virtue of the authority vested in me by law, do hereby certify and declare this entity a body corporate, duly organized this date and that it is entitled to all rights and privileges granted corporations organized under the Missouri Nonprofit Corporation Law.

IN TESTIMONY WHEREOF, I hereunto  
set my hand and cause to be affixed the  
GREAT SEAL of the State of Missouri.  
Done at the City of Jefferson, this  
21st day of October, 2009.

A handwritten signature in cursive script that reads "Robin Carnahan".

Secretary of State

