

DH

Unofficial Document

When recorded, return to:

**Recreational Centers Inc.
7800 Camelback Road
Scottsdale, Arizona 85251**

SCOTTSDALE SHADOWS III

NOTICE OF INVALIDITY OF SECTION 2.1(B) OF DECLARATION SUBMITTING PROPERTY TO A HORIZONTAL PROPERTY REGIME AND DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS

THIS NOTICE OF INVALIDITY OF SECTION 2.1(B) OF DECLARATION SUBMITTING PROPERTY TO A HORIZONTAL PROPERTY REGIME AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Scottsdale Shadows Regime III is made this 30th day of June, 2009 ("Notice").

RECITALS:

- A. Scottsdale Shadows Regime III, Inc. ("Association") is an Arizona Condominium Association, originally created as an Arizona Horizontal Property Regime.
- B. A Declaration Submitting Property to Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions was recorded on November 14, 1972 in Docket 9818, Page 47, Official Records of Maricopa County Recorder (the "Declaration").
- C. Section 2.1(b) of the Declaration provides that any single person or head of any family occupying an apartment unit in this horizontal property regime shall be thirty-nine (39) years of age or older at the time of occupying said apartment unit. No person under the age of sixteen (16) years shall be a resident in any apartment unit.

D. The Fair Housing Amendments Act of 1988, which was passed by the United States Congress, and the Arizona Fair Housing Act (collectively, the "FHA"), made it unlawful to discriminate in the sale of rental of dwellings based upon "familial status"; that is, one or more individuals who have not attained the age of 18 years being domiciled with a parent or other person having legal custody. The FHA contains an exemption permitting restrictions based upon familial status in developments that satisfy certain requirements as delineated in the FHA.

E. When the Declarant originally created the Association, it intended for the Association to operate as an age-restricted community in accordance with Section 2.1(b) of the Declaration. Additionally, because the FHA did not exist at the time the Association was created and the Declaration was recorded, the Association was not subject to the FHA and Section 2.1(b) therefore did not violate the FHA.

F. The Association never operated in accordance with Section 2.1(b) of the Declaration and furthermore did not and does not: (1) operate as an age-restricted community either pursuant to the Declaration or the FHA; (2) restrict or otherwise prohibit any person of any age from residing in the Association; (3) operate or function in any manner as an adult-only community; or (4) discriminate in any manner with respect to residency eligibility within the Association including without limitation, on the basis of age or familial status.

G. The Association reiterates its past and present practices and proclaims that persons of all ages may reside in the Association and presently reside in the Association. The Association further proclaims that Section 2.1(b) of the Declaration does not represent the view of the Board of Directors, manager or residents of the Association.

H. The Association expressly disclaims Section 2.1(b) of the Declaration and considers Section 2.1(b) of the Declaration to be null, void and unenforceable as a matter of law and adopts this Notice to remove any doubts as to its enforceability or application.

I. Section 2.16(c) of the Declaration provides that should any of the covenants, restrictions or conditions herein imposed be void or be or become unenforceable at law or in equity, the remaining portion shall, nevertheless, be and remain in full force and effect.

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NOW, THEREFORE, for the reasons set forth in the Recitals, Section 2.1(b) of the Declaration is hereby deemed to be invalid. Pursuant to Section 2.16(c) of the Declaration, all other portions of the Declaration shall remain in full force and effect and shall be unaffected by this Notice.

IN WITNESS WHEREOF, SCOTTSDALE SHADOWS REGIME III, INC., an Arizona nonprofit corporation, has hereunto caused it name to be signed by the signature of its duly authorized officials as of the day and year first above written.

SCOTTSDALE SHADOWS REGIME III, INC., an Arizona nonprofit corporation

By: Daniel Baran

Its: Vice President Regime III

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 30th day of June, 2009, by Daniel Baran, Vice President of Scottsdale Shadows Regime III, Inc., an Arizona nonprofit corporation.

Claudine Geil
Notary Public

My Commission Expires: 1-10-2011

