

ASSOCIATION

CC & R's

SCOTTSDALE SHADOWS III

DECLARATION SUBMITTING PROPERTY TO A
HORIZONTAL PROPERTY REGIME
AND

DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS

1. DECLARATION SUBMITTING PROPERTY TO A HORIZONTAL
PROPERTY REGIME.

1.1 Description of Property. ENVIRONMENTAL DEVELOPERS, INC., a Colorado corporation, (hereinafter referred to as "Declarant") is the owner of all that certain property in Maricopa County, Arizona described on Appendix "A" attached hereto and made a part hereof, and does hereby submit all of said property to a horizontal property regime, as provided for in Sections 33-551 to 33-561 inclusive, Arizona Revised Statutes, and does hereby declare that all of said property shall be held, leased, sold and conveyed subject to such easements, restrictions, covenants, assessments and conditions as are set forth herein or as the same may be amended, and the By-Laws and rules and regulations and amendments thereto as shall be adopted by the Council of Co-Owners.

1.2 Name. The horizontal property regime hereby created shall be referred to and known as SCOTTSDALE SHADOWS III.

1.3 Composition of Regime. The entire horizontal property regime shall be composed of the general common elements, limited common elements, two seven story buildings identified as Buildings 3A and 3B on Appendix "B" attached hereto, containing a total of 168 apartment units all of said apartment units bearing numbers as set forth on attached Appendices "D" through "Q" and an underground parking garage containing a total of 208 numbered parking stalls as set forth on attached Appendix "C".

1.4 Description of Buildings. The buildings hereinabove referred to, which are now being constructed on the land hereby submitted to a horizontal property regime, will each have six structural stories above the ground floor, and an underground parking garage adjacent to and between said buildings. The two buildings will contain a total of 168 apartments and 28 mechanical and equipment rooms. All patios and balconies attached to an apartment unit shall be included in and shall be a part of said apartment unit. The underground parking garage adjacent to and between said buildings will contain 208 numbered parking stalls

as set forth in attached Appendix "C". The location of the buildings and the underground parking garage on the land is set forth and described on the plat of said land marked Appendix "B", attached hereto and made a part hereof. The vertical boundaries of said buildings and the underground parking garage hereinabove described shall be the exterior of the outside walls located on the perimeter line as set forth on the plat in Appendix "B" attached hereto. The horizontal boundaries shall be the plane of the top elevation and the plane of the base elevation as set forth in the Profile Elevation Schedule on Appendix "B" attached hereto, all of said elevations being based upon the benchmark described in Appendix "B".

1.5 Description of Apartment Units. The vertical boundaries of each apartment unit, including patios or balconies where applicable, located within said buildings shall be the interior of all of the unfinished walls located on the perimeter lines as set forth on the attached plats of each floor and each apartment in Appendices "D" through "Q", inclusive, and made a part hereof. The horizontal boundaries shall be the plane of the top elevation and the plane of the base elevation of each floor in the building in which the apartment unit is located lying between the top surface of the unfinished floor and the underside of the unfinished ceiling and as set forth in the Profile Elevation Schedule in Appendices "D" through "Q", inclusive.

1.6 Description of Parking Stalls. The vertical boundaries of each numbered parking stall located in the underground parking garage shall be within the perimeter lines as set forth on the attached plat in Appendix "C". The horizontal boundaries shall be the plane of the top elevation and the plane of the base elevation in the underground parking garage lying between the finished floor level and the inside of the finished ceiling level and as set forth in the Profile Elevation Schedule on the attached plats of said parking stalls in Appendix "C".

1.7 Percentage Interest in General Common Elements. The designation of each apartment unit including patio or balcony, if any, and each numbered parking stall and the percentage interest which each apartment unit and each numbered parking stall bears to the general common elements in the entire horizontal property regime is as set forth in Appendix "S" attached hereto and made a part hereof. All numbered parking stalls as set forth in Appendix "C" shall be separate units and may be separately owned, sold, conveyed, transferred or leased by the owner or owners thereof.

1.8 General Common Elements. The general common elements of which each apartment unit and each numbered parking stall shall bear the percentage interest as hereinabove set forth, shall include all of the land hereby submitted to the property regime, together with all facilities and improvements placed thereon, and any and

all interests which the Council of Co-Owners of this regime may acquire in adjacent lands or recreational areas or any interest which the Council of Co-Owners shall acquire in Recreational Center, Inc., an Arizona corporation, and any easements granted to the Council of Co-Owners of this regime, less the apartment units and numbered parking stalls hereinabove described.

1.9 Easements for Encroachments. If any portion of the common elements hereinabove described now encroaches upon any apartment units, or if any apartment units now encroach upon any other apartment units or upon any portion of the common elements as a result of the construction of the building or apartment unit, or if any such encroachment shall occur hereinafter as a result of repairing, remodeling or rebuilding of the building, a valid easement for the encroachment and for the maintenance of the same so long as the building stands, shall exist.

1.10 Reciprocal and Public Utility Easements. Each apartment owner shall have an easement in common with the owners of all other apartments to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other apartment units and serving his apartment unit. Each apartment unit shall be subject to an easement in favor of the owners of all other apartment units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common elements serving such other apartment units and located in such apartment unit. The Board of Directors or its duly appointed agent shall have a right of access to each apartment to inspect the same, to remove violations therefrom and to maintain, repair or replace the common elements contained therein or elsewhere in the building. The Council of Co-Owners shall have an easement to enter upon all parking stalls for the purpose of cleaning, painting and repairing said areas. Each apartment unit, parking stall and all of the common elements in this regime shall be subject to a blanket easement for the purpose of permitting the telephone company and the gas and electric company and any governmental agency to install, affix, maintain, operate and replace telephone wires and equipment, electric wires, buried cables, circuits, conduits, fixtures, gas lines, sewer lines, water lines and television cables in all the walls, ceilings, roofs, floors and ground which are a part of this regime. Said easement shall also include the right to use all driveways, passageways and hallways for ingress and egress to all or any part of said property and to temporarily use any part of said property necessary to permit construction, installation and maintenance of any of said utilities.

1.11 Declaration Binding on Co-Owner. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any apartment unit or numbered parking stall shall constitute an agreement that the provisions of this declaration, the By-Laws and the rules and regulations or as the

same may be amended from time to time are accepted and ratified by such owner, tenant, or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such apartment unit or numbered parking stall, as though such provisions were recited and stipulated at length in each and every deed of conveyance or lease thereof.

1.12 Control and Management of Regime. The horizontal property regime herein created shall be managed by the Council of Co-Owners or by its Board of Directors in accordance with the By-Laws adopted by the Council of Co-Owners. Whenever this declaration sets forth a duty to be performed by the Council of Co-Owners, or right, option or other legal interest owned or held by the Council of Co-Owners such duty shall be performed and such right, option or legal interest shall be performed and such right, option or legal interest shall be exercised by the Board of Directors or the Board's duly authorized representative, except such duties and rights as shall be specifically reserved herein to the Council of Co-Owners without right of delegation to the Board of Directors. The Council of Co-Owners acting through its Board of Directors is hereby specifically authorized and obligated to acquire an interest in Recreational Centers, Inc., an Arizona corporation, and to obligate this regime to pay any and all assessments levied by the Board of Directors of said corporation against this regime for purchasing, developing, supplying, maintaining, operating and managing recreational facilities for this regime and other regimes similarly situated on that property in the immediate vicinity adjacent to this regime and described in Appendix "R" attached hereto.

1.13 Council of Co-Owners. The Council of Co-Owners shall consist exclusively of all of the co-owners of apartment units and/or numbered parking stalls in the horizontal property regime. Any co-owner transferring or disposing of his interest in the horizontal property regime shall automatically cease to be a member of the Council of Co-Owners.

1.14 Definitions. Wherever terms or words are used herein which are defined in Section 33-551 A.R.S., such terms or words shall have the definition set forth in said statute, unless otherwise defined herein.

2. DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS.

2.1 Restriction on Use and Occupancy. (a) Each apartment unit in the horizontal property regime shall be used solely for residential purposes by the co-owner as a single family unit for himself and his family and for no other purpose, except that under the terms of these restrictions the unit may be leased to

a single family for residential purposes in accordance with the provisions set forth herein. This restriction, however, is subject to certain rights hereinafter granted to declarant.

(b) Any single person or the 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.

2.2 Maintenance of Apartment Units. Each co-owner shall maintain and keep in repair his own unit. In the event any co-owner shall fail to maintain, keep or repair his own unit and in the event the Council of Co-Owners shall determine that such failure shall place the welfare or safety of the regime or any of the remaining co-owners in jeopardy, the Council shall have the right to make such repairs as it shall deem necessary and shall have a lien against said co-owner's apartment unit as hereinafter provided. The Council of Co-Owners, or its agents, may enter any co-owner's apartment unit whenever necessary in connection with any maintenance or construction which the Council shall deem necessary.

2.3 Alterations. No co-owner shall without the written consent of the Council of Co-Owners make any structural alteration of his apartment unit or any portion thereof.

2.4 Signs. No signs shall be displayed in or upon any portion of the buildings, common elements, or apartments contained therein, by any occupant thereof.

2.5 Floor Covering Required. Each co-owner shall install and maintain at all times at his expense carpeting and/or approved sound conditioned floor covering on all of the floors in his apartment units, except the kitchen and bath.

2.6 Maintenance of Patios and Balconies. No object which in the sole opinion of the Board of Directors is unsightly or objectionable shall be placed, hung or permitted on any patio or balcony. Cleaning and maintenance of finished interior walls, floors and ceilings of each patio and balcony shall be the responsibility of the owner of the apartment unit to which said patio and balcony is appurtenant, provided, however, that painting or decorating of said walls and ceilings must have prior written approval of the Council of Co-Owners.

2.7 First Right of Refusal on Sale. (a) In the event any co-owner (hereinafter referred to as selling co-owner) shall desire to sell his apartment unit, the said Council of Co-Owners has the option to purchase said apartment unit on the same terms and conditions as offered by said selling co-owner to any third

person and on the same terms as any bona fide offer received from any third person. Any attempt to sell said apartment without prior offer to the Council of Co-Owners shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser.

(b) Should any selling co-owner wish to sell the interest conveyed to him hereunder, or any part thereof, he shall, before making or accepting any offer to sell said interest, deliver to the Council of Co-Owners written notice of his intent to sell which notice shall contain the terms of the offer he has received or which he wishes to accept or the terms of the offer which he is prepared to make, and the name and address of the prospective purchaser. The Council of Co-Owners shall, within ten (10) days after receiving such notice, either consent in writing to the transaction specified in said notice, or, by written notice to be delivered to selling co-owner's apartment, designate one or more persons, then co-owners, or any other person or persons whose credit the Council finds to be satisfactory, who are willing to purchase such interest upon the same terms as those specified in selling co-owner's notice. In such case the selling co-owner shall either accept the purchaser or purchasers designated by the Council or withdraw or reject the offer specified in his notice to the Council. Failure of the Council of Co-Owners to designate such person or persons within said ten (10) day period shall be deemed consent by the Council to the transaction specified in selling co-owner's notice, and selling co-owner shall be free to make or accept the offer specified in this notice and sell said interest pursuant thereto to the prospective purchaser named therein within ninety (90) days after his notice was given. If the Board fails to designate any other purchaser within the said ten (10) day period, any member of the Board shall, upon request of the selling co-owner, execute an affidavit stating that the selling co-owner has complied with the provisions hereof. Such affidavit shall contain the information that the Board of Directors has been duly elected, that a particular unit has been offered for sale identifying the same, and that the proper notice to sell has been served by the owner, and that the ten (10) day period has passed and that the Board has failed to designate any other person to purchase the apartment of the owner within the time allowed herein. Such affidavit shall be deemed conclusive evidence of the truth of the facts therein recited. A selling co-owner shall have no right to sell said interest or any part thereof except as expressly provided herein. The provisions of this paragraph and the preceding paragraph shall not be applicable to declarant or its assigns as to initial sale of the apartment units.

(c) Should the interest of a co-owner become subject to a mortgage or other security device given in good faith and for value to a bank, savings and loan association, insurance

company or other corporation or association regularly engaged in making mortgage loans, the holder thereof, upon becoming the owner of such interest through whatever means, or the seller at any sale under a power of sale therein contained, or the purchaser at a foreclosure sale, shall have the unqualified right to sell, lease or otherwise dispose of said interest without offer to the Council of Co-Owners as hereinabove set forth, provided that all subsequent purchasers shall take subject to the limitations contained in said paragraphs.

2.8 Assessments for General Common Element Expenses.

(a) Each co-owner shall pay to the Council of Co-Owners monthly assessments which may be levied by the Council for Co-Owners for maintenance, upkeep, taxes, gas, electricity, water, hazard and public liability insurance, impounds, and reserve for replacements, and shall include in addition, the co-owner's share of the upkeep of all of the general common elements and all assessments paid by Council of Co-Owners to Recreational Center, Inc. for purchase or acquisition cost, construction, maintenance, operation and management of recreational areas and all other necessary expenditures as otherwise determined by the Council of Co-Owners. Each co-owner shall also be liable to pay the Council of Co-Owners his percentage share of any indebtedness or obligations incurred by the Council of Co-Owners to Recreational Center, Inc. for construction and furnishing of recreational facilities and shall make such payment to the Council of Co-Owners as may be assessed by the Council of Co-Owners to enable it to meet from time to time its obligations to Recreational Center, Inc. Said payments shall be allocated on the basis of the percentage of interest in the common elements owned by said co-owner as hereinabove set forth. The Council of Co-Owners or the Board of Directors thereof, shall in accordance with the By-Laws determine the assessment of each owner prior to the beginning of each fiscal year of the regime, provided, however, that said assessments may be adjusted at any time if deemed necessary by the Board of Directors. No co-owner shall be exempt from any assessment or charge by waiver or suspension of the use of any of the common elements, recreational areas or by the abandonment of his unit.

(b) Payments shall be due on the first day of each month and shall become delinquent ten (10) days thereafter if not fully paid. All unpaid assessments shall be subject to a late penalty charge as determined from time to time by the Board of Directors. In the event it shall become necessary for the Council of Co-Owners to employ attorneys to collect any delinquent assessments, whether by foreclosure of the lien hereinafter created or otherwise, the delinquent co-owner shall pay, in addition to the assessment and late penalty charge, interest thereon at the rate of ten percent (10%) per annum, a reasonable attorneys' fee, and all other costs and expenses incurred by the Council of Co-Owners as a result of said delinquency.

(c) Each co-owner shall further pay to the Council of Co-Owners at the time each co-owner purchases or acquires an apartment or numbered parking stall such sum as may be provided for in the By-Laws for working capital and/or insurance impounds.

2.9 Assessment Lien. (a) The Council of Co-Owners is hereby given a lien against the co-owner's apartment or numbered parking stall or any interest therein for any payment or payments which the co-owner fails to make as required by this declaration, provided, however, that (1) such lien shall be effective only upon recordation of the same in the office of the County Recorder of Maricopa County and each co-owner shall by accepting a deed to his unit, appoint, designate and constitute any one of the officers of the Council of Co-Owners as agents with full powers, irrevocable, to declare and record said lien in favor of the Council of Co-Owners. A copy of said notice of lien shall be posted within three days after recording said lien on the apartment unit or numbered parking stall of the co-owner in default; (2) any action brought to foreclose such lien shall be commenced within one (1) year following such recordation and shall be foreclosed in the same manner as provided under the laws of Arizona for foreclosure of a mortgage; and (3) such liens shall be subject and subordinate to and shall not affect the right of the holder of any prior recorded encumbrances on the apartment unit or any interest therein, made in good faith and for value, provided the holder is a bank, savings and loan association, insurance company or other corporation or association regularly engaged in making mortgage loans. The lien hereby given shall also be and is a lien upon all of the rents and profits of the units against which such liens are filed. In the event of a foreclosure, the co-owner shall be required to pay a reasonable rental for the apartment unit to the Council of Co-Owners during the period of the foreclosure suit, and if after the filing of the foreclosure action the co-owner's apartment unit is left vacant, the Council of Co-Owners may take possession of and rent said apartment unit or apply for the appointment of a receiver without notice to the defendants. In addition to the lien rights herein granted, Council of Co-Owners shall have the right to bring an action at law against any co-owner who fails to pay any amounts levied against his apartment, for a money judgment in the amount of the assessment levied plus costs, as provided herein.

(b) In the event a co-owner is in default on any obligation secured by a mortgage on his unit, the Council of Co-Owners may at its option pay the amount due on said obligation and shall have a lien against the interest of the co-owner in the same manner as provided for herein with respect to failure to make payments due hereunder.

(c) In a voluntary conveyance of an apartment unit the grantee of the apartment unit shall be jointly and severally

personally liable with the grantor for all unpaid assessments for common element expenses levied by the Council of Co-Owners against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or Board of Directors, as the case may be, setting forth the amount of the unpaid assessments against the grantor due the Council of Co-Owners and such grantee shall not be liable for any unpaid assessments made by the Council of Co-Owners against the grantor in excess of the amount therein set forth.

2.10 Rules and Regulations. The Council of Co-Owners shall have the right to adopt regulations in accordance with the By-Laws adopted by the Council for the regulation and operation of the regime, including, but not limited to regulations governing the use of the general common elements and any recreational areas. The Council of Co-Owners shall have the right, pursuant to its regulations, to exclude from the use of the general common elements and recreational areas co-owners who are delinquent in the payment of their assessments levied in accordance with Paragraph 2.8 above.

2.11 Right of Council to Enter Apartments and Assess Fines. The Council of Co-Owners through its duly authorized agent shall have the right at all times to enter upon or in any apartment unit to abate any infractions or correct any violation of any of the covenants and conditions herein set forth and shall assess all costs incurred against the apartment owner. The Council of Co-Owners shall have the power to assess a fine not exceeding the sum of Ten Dollars (\$10.00) against any co-owner violating any of the terms or conditions of this declaration for each violation and for each day said violation continues after written notice thereof.

2.12 Storage Areas. The Council of Co-Owners shall have the right, but not the obligation, to set aside certain parts of the common area for storage purposes and to grant to individual co-owners the exclusive right to use certain designated parts of said storage areas.

2.13 Annual Meeting. The first meeting of the Council of Co-Owners shall be held not later than three years from the date of recording of this declaration, and shall meet thereafter as provided in the By-Laws. A Board of Directors shall be elected at the first meeting of the Council of Co-Owners and thereafter as provided in the By-Laws.

2.14 Voting. In the event any apartment is owned by two or more persons, whether by joint tenancy, tenancy in common, community property or otherwise, the membership in the Council of Co-Owners as to each unit shall be joint. In each case where

there are two or more owners of an apartment unit, the owners of said apartment unit shall designate to the Council of Co-Owners in writing at the time of acquisition of their apartment unit one of their number who shall have the power to vote on any matters which must be determined by the Council of Co-Owners as provided for herein, and in the absence of such designation and until such designation is made, the Board of Directors shall make such designation. In all matters requiring a vote of the co-owners, voting shall be on a percentage basis and the percentage of the vote to which each owner is entitled is the percentage assigned in this declaration to the apartment and/or numbered parking stall or stalls owned by each co-owner. As used in this declaration, the term "majority of owners" shall mean those owners of record holding more than fifty percent (50%) of the vote in accordance with the percentages assigned herein to each apartment and to each numbered parking stall.

2.15 Hazard Insurance Coverage and Repairs. (a) The Council of Co-Owners shall maintain sufficient insurance to cover the replacement cost of all buildings, units and improvements in the regime in accordance with the original basic plans and specifications for said building and the improvements in the event of damage by fire and other hazards, covered by standard insurance endorsements, and against such other risks of a similar nature as are or shall be customarily covered with respect to buildings similar in construction, location and use. Premiums for such insurance shall be common expense. In the event of loss the Council of Co-Owners shall use the net insurance proceeds to repair and replace any damage or destruction of property covered by such insurance, provided, however, that in the event the Board of Directors shall determine that the damage or loss exceeds 50% of the total replacement value of the entire building, units and improvements in the regime, then and in that event the Board of Directors, within sixty (60) days from date said loss occurred, shall call a special meeting of the Council of Co-Owners at which meeting the Council shall determine whether or not to repair, replace or rebuild the damaged or destroyed improvements.

(b) In the event co-owners holding 75% of all of the votes assigned to all of the apartments and/or numbered parking stalls in the horizontal property regime, in person or by proxy, vote at said special meeting not to repair, replace or rebuild said damaged or destroyed improvements, the Board, as soon as reasonably possible thereafter, and as agent for all the co-owners and Council of Co-Owners, shall sell the entire land and improvements and all of the co-owner's units and interests therein which are subject to the horizontal property regime in its then condition on terms satisfactory to the Board. The net proceeds of the sale and all insurance proceeds shall thereupon be distributed to the co-owners in proportion to the interest of each co-owner in the general common elements and to each

co-owner's mortgagee or other lien holder as their respective interests may appear. For the purpose of such sale and distribution of the proceeds therefrom and of the insurance proceeds, each co-owner, by accepting the deed to his apartment unit, constitutes and appoints the Board of Directors as his agent with full power to sell his apartment unit as part of a sale of the entire horizontal property regime and to distribute the proceeds of said sale to the co-owners and holders of mortgages and other liens and encumbrances as their interest shall appear. In addition to the sale as herein provided the Board shall further transfer, assign and surrender to Recreational Center, Inc. all of the interest of the horizontal property regime and the co-owners thereof in Recreational Center, Inc. and said regime and co-owners shall have no further liability for any future assessments levied by Recreational Center, Inc.

(c) A copy of the resolution not to rebuild shall, if adopted, be certified to by the President and Secretary of the Council of Co-Owners as having been duly adopted in accordance herewith and shall be recorded in the office of the County Recorder of Maricopa County.

(d) Upon failure of the required percentage of co-owners as hereinabove provided, to vote not to rebuild, the Board of Directors, within ninety (90) days after said special meeting of the Council, shall enter into a contract with a responsible contractor to repair, replace and rebuild the building substantially in accordance with the original plans and specifications for said building as modified by currently accepted construction techniques.

(e) If the insurance proceeds are insufficient to repair or replace the loss or damage, and if the Council shall determine that the repair or replacement shall be made of the damaged elements, the Council shall levy an assessment on each co-owner in an amount proportionate to the percentage of interest of each apartment in the common elements to cover the deficiency, which assessment shall be promptly paid to the Council of Co-Owners.

(f) Insurance coverage shall be written in the name of the Board of Directors as trustees for each of the co-owners. Nothing contained herein shall prejudice the right of each co-owner to insure his own unit for his own benefit. It shall be the responsibility of each co-owner to provide as he sees fit hazard insurance not otherwise covered, home owner's liability insurance, theft and other insurance covering personal property damage and loss.

2.16 Restriction Binding on Co-Owners. (a) The restrictions and burdens imposed by the covenants herein set forth constitute a general scheme for the benefit of all owners in the

horizontal property regime. Said restrictions are for the benefit of all units in the regime, and may be enforced by any co-owner or by the Council of Co-Owners and shall bind all co-owners. Said restrictions shall be a burden upon or a benefit to not only declarant and each individual purchaser but his grantees and all subsequent owners of the apartment units. All covenants are intended to and do constitute covenants running with the land or equitable servitude upon the land, as the case may be, and are intended and shall be binding upon any future owner of the interest granted thereby, as long as said property remains a horizontal property regime.

(b) Failure of the Council of Co-Owners or of any individual co-owner to enforce any condition, restriction or covenant herein contained shall not constitute a waiver of the right to do so thereafter.

(c) Should any of the covenants, restrictions or conditions herein imposed be void or be or become unenforceable at law or equity, the remaining portion shall, nevertheless, be and remain full force and effect.

2.17 Notices. Whenever notices are required to be given to the individual co-owners, such notice shall be effective upon delivery of the notice to the co-owners at their apartments in the horizontal property regime, unless the co-owner shall have previously designated another place for the giving of notice in writing to the Board of Directors. Notices required to be given to the Council of Co-Owners shall be effective upon delivery of the notice to the office of the Council of Co-Owners located on the property described herein or in the recreational center building, in the event no office is maintained, by depositing said notice in a box provided for said purpose on the premises. In addition to said methods of giving notice, any notice shall be deemed to have been given on depositing a copy thereof in the United States Mail, postage prepaid, addressed to the co-owners at the property described herein or to the Council of Co-Owners, as the case may be, and in the event notice is given by mail, it shall be deemed to have been received for the purposes of service two (2) days after the date of mailing.

2.18 Amendments. The Declaration of Covenants, Restrictions and Conditions herein set forth shall remain in full force and effect for as long as said property remains as a horizontal property regime, provided, however, that the Declaration of Covenants, Restrictions and Conditions herein contained may be amended by a vote of co-owners representing 75% of the interest in the regime. Whenever a co-owner's interest is subject to a mortgage, his affirmative vote shall be included in said required percentage only upon concurrence of his mortgagee. Such amendments shall be effective only upon the recordation of the certificate setting

forth the amendment signed by the co-owners and their mortgagees representing not less than 75% of all of the interests in the regime. No amendments to this Declaration of Covenants, Restrictions and Conditions shall be in conflict with the declaration submitting the property hereinabove described to a horizontal property regime, to the laws of Arizona pertaining to a horizontal property regime or any provisions contained herein pertaining to Recreational Center, Inc. or any rights granted to said corporation. For a period of twenty-five (25) years from the date of filing this Declaration on amendments shall be made which are in conflict with any provisions pertaining to Environmental Developers, Inc., or any rights granted herein to said corporation.

2.19 Rights Granted Declarant. (a) Until the first annual meeting of the Council of Co-Owners, all of the rights and duties of the Council of Co-Owners as herein provided shall be exercised and performed by the nominees of the Board of Directors of Environmental Developers, Inc., a Colorado corporation.

(b) There is hereby granted an easement for a period of twenty-five (25) years from the date of the filing of this Declaration to Environmental Developers, Inc. for the exclusive use of each mechanical and equipment room shown on Appendices "E", "H", "L" and "O", at no charge or cost, for the purpose of maintaining and operating therein at its option coin operated washing, drying and/or dry cleaning machines, together with the free right of ingress and egress to each of said rooms. All costs incurred for utilities shall be paid for by Council of Co-Owners as part of common expenses. During the said period of twenty-five (25) years the Council of Co-Owners shall not permit any other washing, drying or dry cleaning machines to be placed in any part of the common elements.

2.20 Easement Granted Recreational Center, Inc. As long as the property herein described remains a horizontal property regime Recreational Center, Inc. shall have an easement over and on top of the underground garage for the purpose of installing, maintaining and operating recreational facilities for the co-owners of this regime and other regimes located on the land described in Appendix "R".

2.21 Taking by Eminent Domain. In the event of a total or partial taking of any part of the horizontal property regime under the powers of eminent domain the co-owners shall be represented by the Council of Co-Owners acting through its Board of Directors. In the event of a partial taking the awards shall be allocated to the respective co-owners according to their undivided interest in the common elements, except as to such portion or portions of the awards which are attributable to direct or consequential damages suffered by particular co-owners, which shall be payable to said co-owners or their mortgagees, as their interests may

appear. In the case of a total taking of all units and the common elements, the entire award shall be payable to the Board of Directors as Trustee for the co-owners to be distributed to the co-owners in accordance with their respective percentage interest in the common elements. Where as a result of a partial taking any apartment is decreased in size or where the number of apartments is decreased by a partial taking, then the Board of Directors may make provisions for re-alignment of the percentage interest in the common elements for the remaining apartments as shall be just and equitable. In the event of substantial taking under the powers of eminent domain co-owners holding 75% of all of the votes assigned to all of the apartments and/or numbered parking stalls in the horizontal property regime, in person or by proxy, vote at a special meeting of the Council of Co-Owners to terminate the horizontal property regime the Board of Directors as agent for all of the co-owners and Council of Co-Owners, shall sell the entire land and improvements and all of the co-owners units and interest therein the same as provided for in Paragraph 2.15 for casualty losses.

2.22 Interpretation. Except for judicial construction, declarant shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, declarant's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and co-owners.

2.23 Captions and Titles. All captions, titles and headings of the articles and sections in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent hereof.

3. PLAN OF OWNERSHIP.

3.1 All of the foregoing declarations are intended to provide a scheme and plan of ownership for this horizontal property regime and other horizontal property regimes which may be created on the land described in Appendix "R".

3.2 It is the intention of declarant to create approximately eight (8) separate horizontal property regimes on the property described in Appendix "R" which regimes will contain approximately 880 apartment units. However, in the event that the market demand for said apartment units is insufficient, declarant reserves the right not to submit any part or all of the remaining property described on Appendix "R" to a horizontal property regime.

3.3 Declarant is the owner of all of the property described in Appendix "R" and hereby grants to the Council of Co-Owners of this horizontal property regime an easement over and

across said land for a private roadway to provide ingress and egress to the property herein submitted to a horizontal property regime and such other easements as may be necessary to provide all public utilities to said horizontal property regime.

3.4 Declarant shall deed to Recreational Center, Inc., an Arizona corporation, all of the private roadways and so much of the property described in Appendix "R" as may be necessary to provide recreational facilities for the Council of Co-Owners of this horizontal property regime and other horizontal property regimes which may be created on the land described in Appendix "R" consisting of, but not limited to, a recreational building, a par three golf course, swimming pools and tennis courts. All of said land and recreational facilities shall be sold, assigned and transferred by declarant to Recreational Center, Inc. subject only to a mortgage or deed of trust securing the purchase price therefore. The purchase price shall not exceed (i) declarant's actual cost of any land so transferred except that the land under the golf course shall be transferred without cost; (ii) declarant's actual costs incurred in building, constructing and furnishing said recreational facilities including direct and indirect expenses attributed to said facilities during construction; (iii) declarant's actual net costs incurred in maintaining and operating said recreational facilities during the period of three (3) years from the date of filing this declaration. Net costs shall not include depreciation, but may include interest expenses for financing the recreational facilities at a rate not to exceed eight and one-half percent (8 1/2%) per annum. Any revenues derived from assessments levied against any regime shall be credited against operating costs. The purchase price for said property shall be payable in monthly installments to amortize the indebtedness over a period of not less than twenty-five (25) years including interest at a rate not to exceed eight and one-half percent (8 1/2%) per annum.

3.5 Recreational Center, Inc., an Arizona corporation, will own, develop, operate and manage all recreational areas for each and all of the horizontal property regimes created on said property described in Appendix "R". The corporation will ultimately be owned and controlled by the horizontal property regimes which will be created on said property and which will have the right in common with each other to use the said recreational facilities. The percentage interest of each horizontal property regime in said corporation will be a part of the common elements of said horizontal property regime. Each horizontal property regime's interest in said corporation will be proportionate to the square footage of apartments in said regime as compared to the square footage of apartments in all the regimes. Each regime will be assessed by Recreational Center, Inc. in the same proportion for all costs and expenses incurred by Recreational Center, Inc. in the development, building, operating and

managing of said recreational areas. Until such time as all of the horizontal property regimes hereinabove described are created by declarant, or until such time as declarant determines not to create any additional regimes, Recreational Center, Inc. shall be controlled and operated by declarant.

3.6 It shall be the responsibility and obligation of the Council of Co-Owners of each horizontal property regime to pay all assessments levied by Recreational Center, Inc. for the costs of developing, building, operating and managing said recreational areas and to assess and collect said sums from each co-owner in the horizontal property regime in the same proportion as each regime uses in assessing its co-owners for other common area maintenance costs in that regime.

3.7 Recreational Center, Inc. shall have the right to assert and enforce a lien against each horizontal property regime created within the area described on Appendix "R" for any and all assessments levied by Recreational Center, Inc. which any horizontal property regime fails to pay. Said lien may be prorated among each co-owner's interest in the regime in the same ratio as the percentage interest of each co-owner's is in the common elements of that regime. Said lien or liens shall be effective only upon recordation of the same in the office of the County Recorder of Maricopa County. A copy of said notice of lien shall be posted within three (3) days after recording said lien on each apartment unit in the horizontal property regime. Any action brought to foreclose such lien shall be commenced within one year following such recordation and shall be foreclosed in the same manner provided under the laws of the State of Arizona for foreclosure of a mortgage. Such lien shall be subject to and subordinate to and shall not affect the rights of the holder of any prior recorded encumbrance on the apartment units or any interest therein made in good faith and for value, provided the holder is a bank, savings and loan association, insurance company or other corporation or association regularly engaged in making mortgage loans.

IN WITNESS WHEREOF, ENVIRONMENTAL DEVELOPERS, INC., a Colorado corporation, has caused its signature to be hereunto affixed by and through its duly authorized officer this 10th day of November, 1972.

ENVIRONMENTAL DEVELOPERS, INC.

By  _____

APPENDIX "A"
TO
DECLARATION SUBMITTING PROPERTY TO A
HORIZONTAL PROPERTY REGIME
AND
DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS
FOR
SCOTTSDALE SHADOWS III

Legal Description of Property:

Being a portion of the SE 1/4 of the NE 1/4, of Section 23, T2N, R4E, G&SRB&M, Maricopa County, Arizona, more particularly described as follows:

Commencing at the SW corner of SE 1/4, NE 1/4 of said Section 23; thence S 89°59'55" E (an assumed bearing) along the South line of SE 1/4, NE 1/4 of said Section 23 for a distance of 356.20 feet; thence N 00°00'05" E a distance of 156.65 feet; thence N 44°59'54" W a distance of 40.00 feet; thence N 45°00'06" E a distance of 259.67 feet to the true point of beginning; thence N 44°59'54" W a distance of 275.33 feet; thence N 45°00'06" E a distance of 439.34 feet; thence S 44°59'54" E a distance of 275.33 feet; thence S 45°00'06" W a distance of 439.34 feet to the true point of beginning.

STATE OF ARIZONA }
County of Maricopa }

I hereby certify that the within
in District was filed and
corrected at request of
AMERICAN TITLE INSUR. CO.

NOV 14 1072-8 00AM

in U.S. 818

on 11-14-64
SSON

By [Signature]
County Recorder

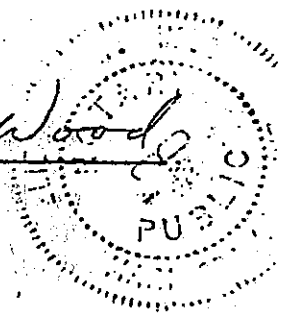
850

STATE OF ARIZONA)
 : SS
COUNTY OF MARICOPA)

On this 10 day of NOVEMBER, 1972, before me personally appeared BERNARD RUBINSTEIN, who acknowledged himself to be the VICE PRESIDENT of ENVIRONMENTAL DEVELOPERS INC., a _____ corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Elizabeth M. Wood
Notary Public



My Commission Expires:
10-23-75

APPENDIX "R"
TO
DECLARATION SUBMITTING PROPERTY TO A
HORIZONTAL PROPERTY REGIME
AND
DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS
FOR
SCOTTSDALE SHADOWS III

The Southeast quarter of the northeast quarter
of Section 23, Township 2 North, Range 4 East,
G&SRB&M, Maricopa County, Arizona.

STATE OF ARIZONA)
County of Maricopa) ss.

I hereby certify that the above
in instrument was filed for record
recorded at this office

AMERICAN TITLE INSUR. CO.

NOV 14 1972-8 02AM

In Book 9818
on page 68-70

Witness my hand and seal
at the city of Phoenix, Arizona.

Paul H. [Signature]

County Recorder

By [Signature]
Deputy Recorder

1050

See Map File

APPENDIX "S"
 TO
 DECLARATION SUBMITTING PROPERTY TO A
 HORIZONTAL PROPERTY REGIME
 AND
 DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS
 FOR
 SCOTTSDALE SHADOWS III A & III B

<u>Apartment Designation</u>	<u>Percentage Interest In General Common Elements</u>
A101	.568%
A102	.568%
A103	.568%
A104	.568%
A105	.568%
A106	.435%
A107	.435%
A108	.568%
A109	.470%
A110	.470%
A111	.568%
A112	.568%
A201	.621%
A202	.568%
A203	.568%
A204	.568%
A205	.568%
A206	.435%
A207	.435%
A208	.568%
A209	.470%
A210	.470%
A211	.568%
A212	.638%
A301	.621%
A302	.568%
A303	.568%
A304	.568%
A305	.568%
A306	.435%
A307	.435%
A308	.568%
A309	.470%
A310	.470%
A311	.568%
A312	.638%

Apartment Designation

Percentage Interest In
General Common Elements

A401	.621%
A402	.568%
A403	.568%
A404	.568%
A405	.568%
A406	.435%
A407	.435%
A408	.568%
A409	.470%
A410	.470%
A411	.568%
A412	.638%
A501	.621%
A502	.568%
A503	.568%
A504	.568%
A505	.568%
A506	.435%
A507	.435%
A508	.568%
A509	.470%
A510	.470%
A511	.568%
A512	.638%
A601	.621%
A602	.568%
A603	.568%
A604	.568%
A605	.568%
A606	.435%
A607	.435%
A608	.568%
A609	.470%
A610	.470%
A611	.568%
A612	.638%
A701	.621%
A702	.568%
A703	.568%
A704	.568%
A705	.568%
A706	.435%
A707	.435%

Apartment Designation

Percentage Interest In
General Common Elements

A708	.568%
A709	.470%
A710	.470%
A711	.568%
A712	.638%

B101	.568%
B102	.568%
B103	.568%
B104	.568%
B105	.568%
B106	.435%
B107	.435%
B108	.568%
B109	.470%
B110	.470%
B111	.568%
B112	.568%

B201	.621%
B202	.568%
B203	.568%
B204	.568%
B205	.568%
B206	.435%
B207	.435%
B208	.568%
B209	.470%
B210	.470%
B211	.568%
B212	.638%

B301	.621%
B302	.568%
B303	.568%
B304	.568%
B305	.568%
B306	.435%
B307	.435%
B308	.568%
B309	.470%
B310	.470%
B311	.568%
B312	.638%

Apartment Designation

Percentage Interest In
General Common Elements

B401	.621%
B402	.568%
B403	.568%
B404	.568%
B405	.568%
B406	.435%
B407	.435%
B408	.568%
B409	.470%
B410	.470%
B411	.568%
B412	.638%
B501	.621%
B502	.568%
B503	.568%
B504	.568%
B505	.568%
B506	.435%
B507	.435%
B508	.568%
B509	.470%
B510	.470%
B511	.568%
B512	.638%
B601	.621%
B602	.568%
B603	.568%
B604	.568%
B605	.568%
B606	.435%
B607	.435%
B608	.568%
B609	.470%
B610	.470%
B611	.568%
B612	.638%
B701	.621%
B702	.568%
B703	.568%
B704	.568%
B705	.568%
B706	.435%
B707	.435%
B708	.568%

Apartment Designation

Percentage Interest In
General Common Elements

B709

.470%

B710

.470%

B711

.568%

B712

.638%

Parking Stalls

Percentage Interest In
General Common Elements

1 THRU 208

.046%

SCHEDULE "A"

LEGAL DESCRIPTION

Apartment Unit and Parking Stall SCOTTSDALE SHADOWS (III), a Horizontal Property Regime as per map recorded in the office of the County Recorder of Maricopa County in Book 150 of Maps, page 3, and per Declaration recorded in Docket 9818, page 47, et seq, all being in that portion of the Southeast quarter, of the Northeast quarter of Section 23, Township 2 North, Range 4 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona more particularly described as follows:

COMMENCING at the Southwest corner of the Southeast quarter, Northeast quarter of said Section 23; thence South 89 degrees 59 minutes 55 seconds East (an assumed bearing) along the South line of the Southeast quarter, Northeast quarter of said Section 23 for a distance of 356.20 feet; thence North 00 degrees 00 minutes 05 seconds East a distance of 156.65 feet; thence North 44 degrees 59 minutes 54 seconds West a distance of 40.00 feet; thence North 45 degrees 00 minutes 06 seconds East a distance of 259.67 feet to the true point of beginning; thence North 44 degrees 59 minutes 54 seconds West a distance of 275.33 feet; thence North 45 degrees 00 minutes 06 seconds East a distance of 439.34 feet; thence South 44 degrees 59 minutes 54 seconds East a distance of 275.33 feet; thence South 45 degrees 00 minutes 06 seconds West a distance of 439.34 feet to the true point of beginning.