

DA

# Unofficial Document

**When recorded, return to:**

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

**SCOTTSDALE SHADOWS VII**  
**NOTICE OF DISCLAIMER**  
**OF**  
**AGE RESTRICTION PROVISION IN**  
**SECTION 17**  
**OF**  
**DECLARATION OF HORIZONTAL PROPERTY REGIME**  
**AND**  
**DECLARATION OF COVENANTS, RESTRICTIONS AND**  
**CONDITIONS**

THIS NOTICE OF DISCLAIMER OF AGE RESTRICTION PROVISION IN SECTION 17 OF DECLARATION OF HORIZONTAL PROPERTY REGIME AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Scottsdale Shadows VII is made this 30<sup>th</sup> day of June, 2009 (“Notice”).

**RECITALS:**

A. Scottsdale Shadows VII, Inc. (“Association”) is an Arizona Condominium Association, originally created as an Arizona Horizontal Property Regime.

B. A Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions was recorded on May 7, 1979 in Docket 13616, Page 264, Official Records of Maricopa County Recorder (the “Declaration”).

C. Section 17 on Page 34 of the Declaration provides that: “Any single person or the head of any family occupying any Unit shall be at least thirty-nine (39) years of age, and no person under the age of sixteen (16) years shall be a resident in any Unit.” (“Age Restriction Provision”)

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 17 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 the Age Restriction Provision in Section 17 therefore did not violate the FHA.

F. The Association never operated in accordance with the Age Restriction Provision on Page 34 of Section 17 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 <sup>Unofficial Document</sup> and presently reside in the Association. The Association further proclaims that the Age Restriction Provision on Page 34 of Section 17 of the Declaration does not represent the view of the Board of Directors, manager or residents of the Association.

H. The Association expressly disclaims the Age Restriction Provision on Page 34 of Section 17 of the Declaration and adopts this Notice to remove any doubts as to its enforceability or application.

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NOW, THEREFORE, for the reasons set forth in the Recitals, the Association hereby disclaims the Age Restriction Provision on Page 34 of Section 17 of the Declaration and such provision is hereby deemed to be invalid. 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 VII, 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 VII, INC., an Arizona nonprofit corporation

By: *Ronald McCarthy / My Geil*  
Its: *PRESIDENT / SECRETARY*

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF MARICOPA )

The foregoing instrument was acknowledged <sup>Unofficial Document</sup> before me this 30<sup>th</sup> day of June, 2009, by *Ronald McCarthy*, *President* of Scottsdale Shadows VII, Inc., an Arizona nonprofit corporation.

*Claudine Geil*  
Notary Public

My Commission Expires: *1-10-2011*

