

When Recorded Return To:

The Travis Law Firm, PLC
10439 S. 51st Street, Suite 205
Phoenix, Arizona 85044

**AMENDED NOTICE OF INVALIDITY
OF THE FIRST SENTENCE
OF ARTICLE IV, SECTION F
OF AMENDED AND RESTATED DECLARATION OF RESTRICTIONS
FOR
PINNACLE PEAK SHADOWS HOMEOWNERS ASSOCIATION, INC.**

THIS AMENDED NOTICE OF INVALIDITY OF THE FIRST SENTENCE OF ARTICLE IV, SECTION F OF AMENDED AND RESTATED DECLARATION OF RESTRICTIONS FOR PINNACLE PEAK SHADOWS HOMEOWNERS ASSOCIATION, INC. ("Notice"), WHICH ONLY APPLIES TO RECORD OWNERS AS OF SEPTEMBER 7, 2022 is adopted on the 7th day of February, 2023, by the Board of Directors of Pinnacle Peak Shadows Homeowners Association, Inc. ("Association").

RECITALS

- A. The Association is an Arizona nonprofit corporation operating as a planned community.
- B. A certain Declaration of Restrictions was recorded on January 31, 1977 at Docket 12057, Page 51; and a Declaration Restrictions was recorded on January 18, 1978 at Docket 12661, Page 331 (collectively "Original Declaration");
- C. Pursuant to Article 22 of the Declaration of Restrictions recorded on January 31, 1977 and January 18, 1978, the Owners of a majority of the Lots voted to amend the Original Declaration.
- D. An Amended And Restated Declaration Of Restrictions For Pinnacle Peak Shadows Homeowners Association, Inc. was recorded with the Maricopa County Recorder's Office on September 7, 2022 at recording number 2022-0695560 ("Amended and Restated Declaration").
- E. The first sentence of Article IV, Section F of the Amended and Restated Declaration states: "No Lot shall be leased for a term of less than thirty consecutive (30)

days and must be to the same individual(s).”

F. On March 22, 2022, the Arizona Supreme Court issued a decision in the case of *Maarten Kalway v. Calabria Ranch HOA, LLC et al.*, 252 Ariz. 532 (2022), where the Court held that an association’s existing declaration(s) “must give sufficient notice of the possibility of a future amendment; that is, amendments must be reasonable and foreseeable.”

G. A dispute has arisen as to whether the Association’s Original Declaration provided sufficient notice to record Owners of the possibility of a minimum time period rental restriction as set forth in the first sentence of Article IV, Section F of the Amended and Restated Declaration as now required by the *Kalway* decision.

H. To resolve this dispute, the Association’s Board of Directors adopts this Notice of Invalidity to declare the first sentence of Article IV, Section F of the Amended and Restated Declaration to be null, void, and unenforceable as a matter of law as to record Owners as of September 7, 2022.

I. The remaining sentences of Article IV, Section F of the Amended and Restated Declaration shall be and remain in full force and effect against all Owners.

NOW, THEREFORE, for the reasons set forth in the above Recitals, the first sentence of Article IV, Section F of the Amended and Restated Declaration is hereby deemed to be invalid as to record Owners as of September 7, 2022. All other portions of the Amended and Restated Declaration shall remain in full force against all Owners and effect and shall not be effected by this Amended Notice.

IN WITNESS WHEREOF the undersigned, hereby certify that this Amended Notice of Invalidity was duly adopted by the Board of Directors as of this 28th day of FEBRUARY, 2023.

BY: 

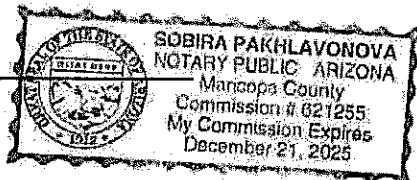
President of Pinnacle Peak Shadows
Homeowners Association, Inc.

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument acknowledged before me on this 28 day of February, 2023, by Jason Stage

My Commission expires 12/21/2025

[Signature]
Notary Public



IN WITNESS WHEREOF the undersigned, hereby certify that this Amended Notice of Invalidity was duly adopted by the Board of Directors as of this 29th day of FEBRUARY, 2023.

[Signature] BY:
Secretary of Pinnacle Peak Shadows Homeowners Association, Inc.

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument acknowledged before me on this 28 day of February, 2023, by Charles Novak

My Commission expires 12/21/2025

[Signature]
Notary Public

