

AGE OVERLAY

# Sun City age violators raise concerns at SCHOA

By Jeff Grant  
DAILY NEWS-SUN

It may well be the essence of what makes Sun City the community it is.

Beyond the rolling grass of its golf courses or the buzz of activity within its social club meeting centers, the community relies on the simple requirement that its residents — at least one per household — are 55 years of age or older.

That restriction is the anchor that keeps the 14.6-square-mile community an age-restricted enclave under federal Fair Housing laws, which state no more

than 20 percent of Sun City's residents can be under 55. And it is the reason the Sun City Home Owners Association is concerned about an unknown number of renters who may be pushing the community toward that limit.

"We are pretty tough on (enforcing) the CC&Rs having to do with age because we do not want to lose our 20 percent overlay. Then, the next thing you know, anybody can live here," said SCHOA Board of Directors President Lloyd Maple.

Adherence to the age limits has always been on SCHOA's

radar. About a month ago, Maple urged residents to keep an eye out for potential violations.

"This violation can have serious consequences to Sun City residents as a whole. It is the responsibility of the Sun City Home Owners Association to protect the value of the CC&Rs as well as enforcing them in order to maintain property values and to keep real estate taxes affordable," Maple wrote at the time.

According to SCHOA Compliance Manager Tom Wilson, 92.94 percent of Sun City's roughly 40,000 residents are above 55. While the

figure is well above the 80 percent required for federally protected age-restricted status, it would only have to dip below the threshold once, and — as Wilson pointed out — the community would lose that qualification forever.

"That would have disastrous consequences," he said.

For example, public school districts, such as the Peoria Unified School District or the Dysart Unified School District could seek to annex the area, making it responsible for paying taxes to support public schools.

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# Violators

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On Tuesday, Maple said there is work to be done.

"We don't have a really good handle, and we don't know how to get a good handle on how many underage people are living in Sun City. We know there's quite

a few."

The concern is mainly over properties owned by someone over 55 who doesn't live on the premises but rents to underage tenants.

"It's economics. If they're going to lose out on a month's rent, they'll look to rent to anybody. There's going to be a lot of them who will do that," he explained.

Another unknown is the number of underage spouses legally living in Sun City. Those individuals are not required to move after their over-55 husband or wife dies, noted director Jim Stark.

"It still counts against the 20 percent. So, when we say we've got 7 percent, we know some of them are in that category," he pointed out.

The rule applies only to spouses and does not protect a deceased owner's adult children under 55.

Anyone under 19 is permitted to live in Sun City but for no more than 90 days during any 12-month period, said Wilson.

What can Sun Citians do to ensure authorities are aware of a potential violation?

Wilson said the first option is notifying one's condo or homeowners association. However, some of Sun City's more than 300 individual associations prefer to have SCHOA enforce their CC&Rs. In addition, SCHOA represents virtually all the community's single-family units.

"If we determine we can't help them, Maricopa County has an age overlay. Theirs would supersede anyone else's," he said.

It really is up to residents, said Maple.

"The only way we find out if an underage person is living in the community is by a neighbor who tells us," the SCHOA board president said.

SCHOA has a handful of compliance officers who will visit an address in question and verify ages, usually by

checking an individual's driver's license.

Last month, there were 12 reported violations. Since SCHOA's fiscal year began Nov. 1, 2014, through Feb. 28, there have been 42 reported age violations. Wilson said as of March 23, all but six had been resolved.

Most people comply when confronted by SCHOA, and cases are resolved in about a month. That's how long an offender is given to make other living arrangements. The minority who resist force SCHOA to seek a judge's eviction order.

Violators are not pursued for

court costs, but Wilson said SCHOA's attorneys fees in such cases are usually minimal.

To contact SCHOA's compliance office, call 623-974-4718, Ext. 205; or email any of the agency's four compliance officers, depending on location:

Gene, Compliance Officer (south of Grand Avenue) — [compl3@suncityhoa.org](mailto:compl3@suncityhoa.org)

Jim, Compliance Officer (south of Grand Avenue) — [compl4@suncityhoa.org](mailto:compl4@suncityhoa.org)

David, Compliance Officer (Between Grand Avenue and Bell Road) — [compl5@suncityhoa.org](mailto:compl5@suncityhoa.org)

Mike, Compliance Officer (north of Bell Road) — [compl2@suncityhoa.org](mailto:compl2@suncityhoa.org)

When making a report, callers are asked to provide their name and contact information, which is kept confidential by SCHOA.

Check us out and like [YourWestValley.com](http://YourWestValley.com) on Facebook

*"We do not want to lose our 20 percent overlay. Then, the next thing you know, anybody can live here."*

**Lloyd Maple**  
President  
SCHOA Board  
of Directors

Wednesday, January 20, 1988

The Phoenix Gazette

# Age 45 minimum urged in Sun City

By **Connie Cone**  
*The Phoenix Gazette*

SUN CITY — The 62-year-old firmly shook his head.

"Forty-five?" George Kumferman said in response to a question. "I just think that's too young of a minimum age for Sun City. I'm not sure that they'd be compatible with the older ones here."

Standing next to him, but with an opposing view, was his wife, Delores. "I think that would be OK," she said.

The Kumfermans are like many folks in Sun City — divided on whether it is a good idea to lower the age restriction in their community from 50 to 45.

Jim Jacob believes it is worth a try. He is chairman of the "45 Years Overlay" campaign.

The change would benefit the community socially and economically, he said.

"The average age here used to be in the mid-50s," Jacob said. "Now, it's in the 70s. People are using our rec facilities less and less. The bowling people are finding it hard to find substitutes, and the Sheriff's Posse and Sun City Prides are having a tough time finding new people."

Another problem is the drop in rec center membership. "It used to be every house had a husband and wife, both paying dues to the rec center," he said. "Now, many of the husbands are dead, so that's only one membership coming in now."

"Lowering the age restriction also would help people sell their houses. We have to compete with places around us that allow younger people."

Jacob was referring to several Valley "adult communities" that

offer housing and recreation facilities to residents.

Three Peoria developments have lower minimum ages — Westbrook Village, 40; Sun Air Estates, 45; and County Meadows' condominium area, 35.

"If you lowered Sun City's age, we might get some people in who haven't retired yet, but will be soon," Jacob said. "It would give us a wider range of ages here and bring more life into the community."

"Our rec centers help by giving Sun City popularity and appeal. People want to come here. But if someplace else lets them live there at a younger age, they'll go there."

Having younger people in the community might mean more people in Sun City during the summer. "That would be a big help to our businesses and could increase our shopping centers' income," Jacob said.

To further explain his position, he pointed out that Del E. Webb Corp., which started Sun City in the 1960s, has a younger age restriction in its new retirement development.

"Down at their Tucson development, the Vistoso, 45 is the minimum age," he said. "They realized 50 was too restrictive to be competitive."

Jacob recognizes that his battle could be a difficult one and adds that he needs money and manpower. He said about \$3,200 is needed to print brochures and petitions for his cause, 36 people are needed to help collect that money and 150 people are needed to circulate the petitions.

So far, the "45" movement is a small one, with about five fellow

See ■ Age, Page B

VF SC Age Restrictions

# ■ Age

Sun City residents joining Jacob's effort to change the county's senior citizen zoning ordinance.

As it stands, the regulation says a dwelling in such a designated district must have at least one person at least 50 years old, with no one 18 or younger living there more than 90 days.

Jacob said that although he wants the restriction lowered to 45, his proposal keeps to the restriction on children under the age of 18.

"A lot of people, when they hear what we're doing, think we want to allow children. We don't, and we'll try to make sure the residents understand this," he said.

The decision to change the senior zoning ordinance does not rest with the citizens but with county Board of Supervisors, said Bob Brittain, a principal planner in the county's Department of Planning and Development.

"The process first mandates holding public hearings," he said. "Then, if the supervisors approve it, the age change would apply to all areas in the county under the ordinance."

Asked whether Jacob could apply for a change just for Sun City, Brittain said, "We can't apply one standard to one area of the county and not another."

In addition to getting the ordinance change, Jacob's group is aiming at lowering the age restriction for membership in the Sun City rec centers, which also is 50.

Vincent De Francis, a member of the rec center, said an age restriction change would require an amendment to the board's bylaws. This could take place one of two ways:

■ Through an initiative by the rec center board of directors, which then would be put to a vote by the 42,000-plus rec center members.

■ Through a petition drive by the members. Validated signatures of 10 percent of the members would force a membership-wide vote.

Ted Hoyt, president of the Sun City Home Owners Association, was not sure how the community would respond to Jacob's proposal.

"The HOA has received word of it, but we haven't made a decision one way or another," he said. "We are referring it to our advisory board and will get input from the community before we take a position on what we'll do."

Hoyt sees Jacob's undertaking as a major issue. "It's more than just Sun City; there are other communities affected by this ordinance," he said.

"Speaking personally, I have heard from the rec board that there is a possible problem with usage of the golf courses and with bowling. My friends and I are getting older and use the outdoor facilities less and less."

He said a lower age could give life to sluggish home sales. "All you have to do is ride around and look at all the for-sale signs," he said. "Maybe they are asking too high a price, but maybe it's because of the restriction."

In a random survey of Sun City residents, many were surprised to hear that a petition drive was in the works.

## From Page A

"Really? Someone is trying to lower the age?" Peter Olegar said. "Well, I'd have no objection to it."

Randall Gallagher, a four-year resident, agreed. "I see no problem."

Likewise, said Louise Huffman. "It's fine with me. I didn't know someone was trying this. I suppose they'll find a lot of people who like it like it is. I think, however, we need some young ideas in the community."

But Dorothy Zink, who has lived in Sun City for 17 years, believes that an age change would be unwise.

"I'm definitely not in favor of it," she said. "As far as I'm concerned, this is a retirement community and more of us are getting over 65. We're still participating in activities. I guess, though, it's all right as far as the financial end if it would help keeping up the rec centers or such. But otherwise, I'm more interested in a quiet community."

Jacobs can be reached by calling 972-3080.

# question age law

## Will child ban be overturned?

By **Connie Cone Sexton**

*Phoenix Gazette*

SUN CITY WEST — Because of a recent change in fair-housing laws, will families with young children soon have the right to move into the Sun Cities?

It is a question much on the minds of residents in retirement communities.

Effective Sunday, the federal Fair Housing Amendments Act of 1988 prohibits — in the sale or rental of property — discrimination against the physically handicapped, the mentally handicapped, families with children, pregnant women or people seeking legal custody of children.

The amendment, however, does provide certain exemptions for "retirement" communities. They are:

- Housing designed for the elderly that is provided under government programs.

- Housing intended for and solely occupied by those 62 and older.

- Housing that is occupied by at least one person 55 or older per unit as long as 80 percent of the residents are older than 55.

Under these specifications, Sun City and Sun City West might not be protected from the fair-housing amendment, since their minimum age requirement is 50, a Maricopa County employee said.

But there is another consideration, said Tom Wilson, program manager of the Fair Housing Center for Maricopa County. He works for Dynamic Program Planning Inc., which is under contract with the county to run the center.

Wilson spoke last week to Sun City West residents at an information meeting on incorporation. One of the questions brought up was how the fair-housing laws will apply to the community.

Wilson said although Sun City West does not strictly meet the age exemptions, the area, however, was "developed, advertised and sold in accordance with being a retirement community."

"So, I would still treat it (the community) as if the age requirement was 55," he said.

If a family is turned away at the "for sale" and "for rent" signs, Wilson said the family probably wouldn't have a case and he wouldn't consider it, either.

He did say, however, that the laws are confusing and that he is seeking clarification from the federal Department of Housing and Urban Development.

Wilson predicted there will be some challenges to the law. "There probably will be test cases in court," he said.

"But there's a moral issue with Sun City West. It was developed and sold as a retirement community. I don't think it was the intent of Congress to enact a law that will have an impact on senior communities," Wilson said.

A special senior-citizen zoning from Maricopa County has been used by the Sun Cities to keep out families with children.

The zoning ordinance allows the sale or rental of homes within that area only to buyers 50 or older. But county officials say the zoning will have to be changed because of the housing amendment.

# Retirement enclaves anything but boring

Vibrant, active lifestyle belies author's portrait of decaying community

Andrew Blechman's article, "Living in a world of exclusion," (Viewpoints, July 20), tries to paint a bleak, depressing picture of a growing number of Americans who are moving to active-adult communities.

Problem is, I can't relate to any of it when I visit with residents at dozens of our Del Webb communities across the country.

When I visit our communities, I see vibrant, active people age 55 and older who choose to live here. They're opting into an environment where they can pursue new passions, work part or full time and enjoy the later stages of life. Note, I say "stages." These people have many good years ahead of them. They choose to do all this with people of or close to being of their generation, and they engage in a vibrant and active way of life.

I question Blechman's claims that these communities represent the "erosion of community values."

Residents of these communities typically engage freely and fully in volunteerism at levels unmatched by greater society. In fact, the original Sun City in Phoenix, which the author cites, is known as "the city of volunteers" because of the overwhelming generosity of its residents to charitable causes within their larger community during the past five decades.

Another active-adult community contributed a total of 1 million volunteer hours to local hospitals, hospices, youth organizations and the like in less than 10 years after its first resident moved in. How many towns can top that?

While Blechman alleges that active-adult communities don't like kids and schools, he fails to acknowledge that these homeowners contribute millions of dollars each year to local schools when they pay their



THE ARIZONA REPUBLIC

More than 100,000 people visited Sun City to look at homes on its opening day in 1960. Del Webb sold 237 homes that weekend.

*Residents of these communities typically engage freely and fully in volunteerism at levels unmatched by greater society. In fact, the original Sun City in Phoenix ... is known as "the city of volunteers."*

property taxes — without adding a single child to enrollments. He also neglects to mention that developers pay school-impact fees at the time of development (albeit to a lesser extent for an active-adult community) adding significant dollars to the schools.

Those 55 and older have many issues to face today: working longer into the "retirement" years, more expensive health care, a longer lifespan than ever before, as well as the macro economics of the world around them that include higher costs of living. Del Webb communities provide a place for active adults to live their life surrounded by people "like me" in the same age range and stage of life. They have a solid set of community values that shine when a neighbor is in need, and it is frequently heard that our residents have made the best friends of their life while living in a Del Webb community.

Our own statistics prove that the large percentage of Americans will stay in place as they

age. Today, there are about 300,000 residents in the 80 or so Del Webb communities across the country. By comparison, Baby Boomers number more than 78 million. An age-restricted community is just one option people have when choosing where to live.

Where you choose to live at any point in your life is a personal decision. Blechman chooses to live in rural Massachusetts. Other people choose to live in Manhattan or in the desert. Del Webb residents, as have most active adults, have spent a good portion of life living in the communities the author wishes they would rejoin. They've raised families, contributed to their churches and synagogues, and many have enjoyed long and rewarding careers. Now, they choose to pursue a new lifestyle in a different location. It's nice to have options, isn't it?

*Steven C. Petruska is executive vice president and chief operating officer of Pulte Homes Inc./Del Webb.*

# Living in a world of exclusion

'Active adult' communities founded upon values that are anything but neighborly



**Andrew D. Blechman**  
AUTHOR

“Community values” is one of those buzzwords that is so universal it has lost nearly all meaning. Politicians of every stripe are quick to laud them, and most everyone in the audience will nod and clap, agreeing that community values are indeed good, patriotic and something we should work to strengthen. But few among us actually pause to consider what our community values are or should be.

Today, more and more Americans are coming to embrace a lifestyle defined by one com-

mon trait — the exclusion of children and young families. But although segregation is a dubious tenet upon which to found a community, and despite the fact that this premise has remained essentially unexamined, so-called “active adult” developments are rapidly gaining acceptance in American society. The erosion of community values that they represent surely deserves more than a passing nod.

It’s true that America is becoming an increasingly confusing place in which to live, let alone grow old. The average

American moves 12 times during the course of his or her life, and a majority of us now live in mindless and alienating suburban sprawl, which is antithetical to aging-in-place. Aside from faith-based organizations, a traditional sense of community — “we’re in this together” — has become increasingly difficult to find.

In my book *Leisureville*, I describe the successor to Arizona’s once-famed Sun City. The Villages of Florida is now the largest retirement community

See **BLECHMAN** Page V3



JOHN SEVERSON/THE ARIZONA

Living among aging peers and golf courses may be a lot of fun, but a cool and functioning society demands cooperation between the generations.

# Living in age-restricted ghettos

**BLECHMAN**  
Continued from V1

in the world. Nearly twice the size of Manhattan and with a targeted population of 110,000 people, it has more than three-dozen golf courses (and plans for many more); dozens of pools and state-of-the-art recreation centers; two make-believe downtowns where residents can congregate; and a non-threatening Viagra-fueled nightlife for those on the prowl. (The vast majority of Villagers aren't actually old, but rather middle-aged.)

Aside from the canned environment — golden oldies are pumped out of lampposts and faux downtowns are “themed” by entertainment specialists — it's generally an attractive place to retire and play. And after a partial lifetime of hard work and child-rearing, older Americans deserve a place where they aren't marginalized and forgotten, let alone taxed like younger generations, right?

Although many of the subjects in my book often refer to this word — deserve — I'm left unmoved. I'm more concerned with examining the ramifications of this relatively new cultural phenomenon: Societal secession may be a recently legitimized rite of passage, but that doesn't mean that it is either healthy or desirable.

It has become increasingly clear to me that Sun City, the Villages, and thousands of other “voluntary ghettos” around the nation, are neither sustainable nor accountable. Rather, they are a fantasy, the product of a developer's profit-driven concept of “geritopia.”

Sustainable communities aren't based on leisure. Living among a community of aging peers and golf courses may be comforting and a lot of fun, but a complex and functioning society demands cooperation between the generations.

No one can live in a bubble, regardless of how pleasant the initial experience may be. As Arizonans may remember, even Biosphere 2 eventually needed oxygen pumped in. Similarly, without new generations and reinvestment, and the constant renewal they bring, it is hard to imagine how these commu-



FILE PHOTO

More than 100,000 people came to Sun City for opening day in 1960. The community was among the first to limit residency to older people.

**AZ Talk** Andrew D. Blechman will discuss his book and research as a guest this week on aztalk Live Talk Wednesday at [www.aztalk.azcentral.com](http://www.aztalk.azcentral.com).

prosper over time.

And then there are the rest of us. After defeating 17 school-bond measures in 12 years, de-annexing from the local school system, and all the energy spent evicting “contraband children,” Sun Citians can likely forget relying on the goodwill of their neighbors who often share a reciprocal bounty of distrust, anger and apathy. Shown in this light, Sun City's claim to fame — community service — rings rather hollow.

Life in the Villages is similarly premised: Seniors have taken control of their county's political machinery and have already begun closing parks for young families who live outside the gated community. As one Villager proudly told me without a trace of irony, “In the Villages we spend our tax dollars on ourselves.”

If the Villages and Sun City cannot be accountable to their neighbors, then why should their neighbors be accountable

to them, even when it comes to funding Medicare, Medicaid and Social Security?

After years of leisure, many Sun City residents have little interest in making the world, let alone their own community, a better place. They'd rather glide to the finish, which is why the community is already getting ratty around the edges. Why accept the burden of investing in the long-term future — whether it's children, schools, parks, or anything else that drives us forward from one generation to the next — when there isn't one?

After years of the good life, Sun City's selfish premise has turned inward. The same seniors who voted down 17 school-bond referendums are now dead set against renovating their own recreation centers, which are now mainly used by younger retirees.

Such a mentality leaves Sun City at risk of turning into a necropolis. Communities that don't reinvest in themselves die untimely deaths.

When I asked the president of the homeowners association — Sun City's leader by default — what his plans were to ensure the future of his aging community, he had this to offer: “Dammed if I know!”

It comes as little surprise that residents consider actual self-governance via incorporation to be “too expensive.”

In today's fractured world, many seniors understandably want to band together. But if Sun City residents, and their brethren around the nation, are concerned about fostering meaningful community values — the kind that will sustain and enrich us all over time — they might reconsider the validity of age-segregation and re-examine their relationships with their more youthful neighbors, before it's too late.

Many of the Sun City residents and Villagers I interviewed admitted that deep down something about age-segregation sticks in their gut. They should trust their instincts. We humans have lived in multi-generational communities in one form or another for tens of thousands of years. Age segregation is 50 years old. When it comes to fostering a sustainable and accountable future, whose intuition would you rather trust: A developer's or that of the human race?

Andrew D. Blechman is the author of “Leisureville — Adventures in America's Retirement Utopias.”



DAILY NEWS-SUN WEDNESDAY, JAN. 1, 2003

# Age-overlay violation tops stories for 2002

STAFF REPORT

Of all the stories that made news in the Sun Cities in 2002, a child captured the most interest in local headlines, according to a Daily News-Sun review of the top 10 local stories of the year.

The Daily News-Sun's editorial staff reviewed back issues to compile the list, which was topped by a court battle involving Sun City's age overlay.

Among other headline-grabbers for the year were the conviction of a Peoria man who killed two women at a Ventana Lakes property owners association meeting; the ongoing battle between Sun City West community organizations; water issues; a football stadium and a corporate bankruptcy.

Following are the Daily News-Sun's top stories of 2002:

## ● No. 1: Age restriction — April through August

After being allowed a stay of 14 months, Mary Scott and her family left Sun City for Peoria. The family was found to be in violation of the retirement community's age restrictions because Scott's granddaughter, 10-year-old Brittney Shields, was living in the home.

On April 10, the Maricopa County Board of Adjustments ruled that Brittney could stay an additional 14 months in the community. She had been living with Scott in Sun City since her 22-year-old brother was involved in an automobile accident that left him in a wheelchair two years ago.

By August the family had moved.

Under Sun City's Covenants, Conditions and Restrictions, Shields was not

allowed to live in Sun City for more than 90 days in any calendar year.

A couple of neighbors said they thought the family moved Aug. 5, making good on the promise they would be gone by that month's end.

Sun City is an age-restricted community under federal guidelines and the community's Covenants, Conditions and Restrictions prohibit people younger than 19 from living in Sun City for more than 90 days.

## ● No. 3 (tied): CAP water pipeline: February to present

The on-and-off saga of the proposed Central Arizona Project pipeline to bring Colorado River water to the Sun Cities golf courses remains unsolved after several Arizona Corporation Commission meetings were canceled in 2002.

In November, after several earlier delays dating to 2001, the Arizona Corporation Commission staff said the decision on whether to approve the pipeline's construction would be made during meetings Dec. 17 and 18, 2002.

That changed in early December, when the date was pushed again to sometime in 2003.

The Sun City Taxpayers Association continues to push the Recreation Centers of Sun City board of directors to allow centers' members the opportunity to vote on whether to build the pipeline. The centers' board approved the issue without calling for a membership vote.

The proposed pipeline would bring CAP water into Sun City for use on centers' golf courses, and would tie into an existing pipeline in Sun City West to serve golf courses there as well. The pipeline would run south along 99th Avenue, follow Del Webb Boulevard and branch off to the golf courses from there. Private golf courses would be unaffected.

## Paralyzed man becomes his sister's keeper

Technically, it's all about his 9-year-old sister, Brittney. She's the one too young to live in Sun City, not he. But Michael Shields knows that if it weren't for the accident that left him paralyzed, his family wouldn't have had to move in with his grandmother. And wouldn't have the old folks in an uproar.

The Shields family got a reprieve this week from the Maricopa County Board of Adjustment. The battle isn't over, though. The Sun City Homeowners' Association is considering going to court to evict Brittney, whose very presence



**RICHARD RUELAS**

The Arizona Republic

is a clear violation of the rules.

"We don't have a problem ... with children," says Gerald Unger, president of the group. "We have a problem with violations of the rules."

Shields says he feels bad so many Sun City residents are upset.

"It was never our intention to disturb anybody's lifestyle. ... It's something you don't expect in life."

The unexpected happened July 4, 2000.

Shields was a carefree 20-year-old. He was a high-school dropout, working as a night stock boy at a supermarket. He liked to party.

He and his buddies used to drink beer in a cornfield near Gilbert. That's where they were headed that day.

"We had gone there thousands of times," Shields says. But this time, the driver, who had already started drinking, was going too fast down the dirt road and lost control. The Honda spun sideways and then started to roll. Shields woke up in the cornfield.

"I knew instantly my neck was broke," he says. "I couldn't feel any-

thing below my head, pretty much below my throat, everything was numb.

"I knew I was paralyzed."

He was calm, though. "God's peace was definitely over me."

Doctors affixed a metal halo to his head to hold his neck in place. Then came surgeries on his spine and neck. He was in rehab for several weeks.

"The first time my friends came in to see me, all they could talk about was how they were at this party the other night, and so and so was going on, and here I am laying up in the hospital bed, and I've got all this equipment strapped to me."

That's when he realized his family was more important than his friends.

His family was living in a trailer near Maricopa. It was too far away from hospitals and couldn't accommodate a wheelchair. There were also medical bills to pay.

So they moved in with Grandma. The living room in Mary Scott's Sun City home is now Shields' bedroom. He can get outside the sliding doors without much trouble.

However, Sun City is a retirement

community, and it doesn't allow anyone under 19 to live there.

Mary Scott says she knew about the restriction when she bought her home in 1990. "(But) no one assumes that anyone in their family will have a catastrophe."

That was what the family tried to tell the board at the hearing. They also argued that it's important to keep Brittney with her family and not ship her off to distant relatives. Shields told the board how Brittney helps care for him and keeps his spirits up.

Shields is used to speaking in front of groups. Since his accident, he has used his story and his wheelchair to shock teens into sobriety.

"They can relate a lot more to me, being of younger age and seeing me in the chair, I think, really hits home," he says. "I've tried to make a difference in these young kids' lives."

He has already helped make a difference, for now, in at least one.

Reach Ruelas at richard.ruelas@arizona-republic.com or (602) 444-8473.

# Age overlay complaints common in state

**JOHN SOKOLICH**  
DAILY NEWS-SUN

Age restrictions have long been a problem in Arizona, some state officials say, but to what extent is hard to discover.

Larry Bush, of the U.S. Department of Housing and Urban Development, said Arizona has had many complaints about some of its age overlays, but tracking the complaints is nearly futile.

"A lot of them have to do with interpretation of the law, which is

sometimes vague," he said. "The records are kept in various places, so it's going to be a job trying to track them."

Bill FitzGerald of the Maricopa County Attorney's Office said the state's age restriction measure is among Arizona's more controversial laws, but he said he is not sure how to track complaints.

"I know that it's never been at a point where it could be overthrown as a legal concept, but it is one of the more controversial things out there," he said. "We require that the

statistics for these communities are sent to the federal government just about every year as a way to determine the make-up of the population and as a way to protect the age overlay."

Retirement communities fall under the regulations of the federal Fair Housing Amendment Act of 1989, which states that at least one person living in a residence must be 55 years old or older.

The Sun Cities also fall under Maricopa County's Age Restricted Zoning Ordinance, which states no

one younger than 19 may be a permanent resident of the communities.

Sun City used to rely on Census data to prove its residents meet the age overlay restrictions, but the county attorney's office last year refused to allow that data because it is not kept current on an annual basis.

Since then, Recreation Centers of Sun City officials have been tracking the age of community residents through recreation cards. Since October, RCSC has complied about

78 percent of the residents and determined that Sun City will fall well within the guidelines outlined by the federal government and county for the age overlay.

Sun City officials are bent on keeping Sun City's age overlay intact, but concerns were renewed Wednesday afternoon when the Maricopa County Board of Adjustment granted a 14-month stay for a 9-year-old living within the community.

**See Youngtown, A5**

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# Youngtown lost overlay in 1998

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## From A1

The youngster has been living with her grandparents and is expected to move out at the end of the summer.

Although county officials claim the ruling does not set a precedent for retirement communities, it appears similar — at first glance — to a ruling that ultimately caused Youngtown to lose its age restriction.

A small Northwest Valley

town created in 1954, Youngtown was the nation's first master-planned retirement community. The developer's intent was to maintain the town for seniors only, but the community was created without deed restrictions.

That's where the difference lies between Youngtown and Sun City — Del Webb created the latter community and implemented the required deed restrictions.

In the 1980s, Youngtown approved seniors-only

housing districts covering all residential areas, mandating that residents had to be 55 or older and no one younger than 19 could stay longer than 90 days.

That changed four years ago when the Arizona Attorney General's Office became involved after the town tried to oust a 17-year-old boy from his grandparents' home. A review showed Youngtown's age-restricted districts weren't created properly, therefore making them

invalid.

RCSC President Jerry Swintek said he doesn't find the 9-year-old's situation similar to the case in Youngtown. He said Sun City's deed restrictions are firmly in place, and the county's ruling was only a variance, similar to any of the four such variances granted within the community in the past five years.

*John Sokolich can be reached at 876-2526 or [jsokolich@aztrib.com](mailto:jsokolich@aztrib.com).*

OVER

SUN CITIES INDEPENDENT

APRIL 17-23, 2002

# County allows girl to remain in Sun City

## 14-month variance granted by Board of Adjustment

By Mike Russo  
Independent Newspapers

Despite the protests of about 50 Sun Citians in attendance, the Maricopa County Board of Adjustment voted 3-1 April 10 to allow a 9-year-old girl and her family to remain living in Sun City for another 14 months.

Brittney Shields and her family have been living with her grandmother, Mary Scott, at Mr. Scott's residence in the 15000 block of N. Bowling Green Drive, since September 2000, when her brother, Michael, was

severely injured in an auto accident.

The Sun City Home Owners Association had filed a complaint against Mrs. Scott, seeking the girl's removal from the age-restricted community.

Sun City's age overlay only allows children under the age of 19 to visit for periods of up to 90 days.

In its complaint, HOA noted that allowing a minor to remain in the community might jeopardize the community's age-restricted zoning.

That fact was reiterated by

HOA President Gerry Unger.

He said the Board of Adjustment's decision established a worrisome precedent by allowing a child to remain in the community.

"We cannot recall any time in the past when the Board of Adjustments has granted a variance to allow a child to remain in Sun City," Mr. Unger said.

"This set a precedent allowing children to be accepted legally in Sun City, even though it violates our CC&Rs, and could ultimately result in a situation, like Youngtown," he continued.

Youngtown lost its age overlay in April 1998 when the Attorney General's Office ruled that the age-restricted zoning had not been properly established.

The ruling came following the filing of a lawsuit by Youngtown residents Jerry and Lynne Rae Naab, after questions were raised regarding the legality of their 17-year-old grandson, Chaz Cope, residing with them.

"We don't want the same thing to happen to Sun City," Mr. Unger said.

About 600 Sun City residents had signed petitions or written

the county seeking the girl's ouster from the community.

Brittney's brother is 22 and would be allowed to remain living in Sun City under the deed restrictions, which requires that one resident of the household be at least 55 years of age, which Mrs. Scott is.

Michael suffered a spinal cord injury in the 2000 auto accident and the family moved into Mrs. Scott's house to ease the financial burden created by medical care.

In his presentation before the board, Mr. Unger emphasized, "We have had about 120 age questions arise in the last couple of years, a couple of which involved children, and all but four were resolved. We have resolved all of the child claims filed amicably without going to legal recourse.

"In the 14 months (that

Brittney will be allowed to remain in Sun City), about 2,000 Sun City residents will die, so for them it was a lifetime decision," Mr. Unger added.

Mrs. Scott said she was delighted with the outcome.

"I am much relieved," she said. "It takes the pressure off my family and we will do everything we can to move as soon as

possible."

Mrs. Scott said she is also considering moving out of Sun City.

"They are working diligently to save money," Mrs. Scott said. "My daughter has two jobs and my son-in-law has a job and they are trying to pay off their bills and save some money."

HOA has 30 days to appeal the case to the Arizona Superior

Court, but Mr. Unger said it was unlikely that course of action would be pursued.

Despite the setback in this case, Mr. Unger said, "We stand firm and able to contest any future violations of Sun City CC&Rs from people who may wish to test our resolve to resist any compromise of our Sun City lifestyle."

© THE ARIZONA REPUBLIC FRIDAY, MAY 3, 2002

# Group fights to evict child

## Sees 9-year-old as zoning threat

By Dennis Godfrey  
The Arizona Republic

The fight to evict a 9-year-old girl from Sun City is not over.

In April, the county Board of Adjustment said Brittney Shields could remain in Sun City until June 2003. At the board's hearing, the homeowners association leadership and a number of Sun City residents spoke against allowing the child to remain at her grandmother's house.

The association worries that the child's extended presence threatens the zoning that permits limiting Sun City residences to adults.

Gerald Unger, president of the Sun City Home Owners Association, said the association is asking that the county change or appeal the Board of Adjustment ruling.

"It's a county ordinance, so we're asking the county to review that decision," Unger said.

The letter requesting the action was in the office of the association's attorney and had not been delivered earlier this week. Calls to the lawyer were not returned.

It is unlikely that the county will respond favorably, said Charles Hart, principal planner for the county.

He noted the county staff recommended allowing Brittney to stay in Sun City for another year.

"We would not appeal. They would have to appeal the decision to Superior Court," Hart said.

The county ordinance limits children to stays of no more than 90 days in Sun City and other age-restricted communities. Temporary extensions for up to two years can be granted.

Mary Scott took in her daughter's family after grandson Michael Shields, 22, suffered a severed spinal cord in an automobile accident.

Along with Michael came his parents and sister, Brittney.

The family already has lived in Scott's house for 18 months, Unger said.

"She's not been what I'd call cooperative," he said.

Scott said a serious illness kept her from being communicative and cooperative.

Scott said her daughter and husband hope to move from Sun City long before June 2003.

Daily News-Sun • Friday, May 10, 2002

# Homeowners group files appeal in time

**SCOTT:** Resident says 9-year-old granddaughter will be gone by end of summer

JOHN SOKOLICH  
DAILY NEWS-SUN

Just under the wire, the Sun City Home Owners Association filed an appeal in Maricopa County Superior Court to keep a child from living in the community for the next 14 months.

On April 10, the Maricopa County Board of Adjustment ruled that 9-year-old Britney Shields could stay an additional 14 months in the community. She has been living with grandmother Mary Scott in Sun City since her 22-year-old brother was involved in an automobile accident that left him in a wheelchair two years ago.

The HOA had until today

to file the appeal, which it did Thursday morning.

"What we are doing is trying to set a precedent with all these legal filings," said Gerry Unger, the HOA president. "We want people to know that if they violate the deed restrictions within Sun City, we will exercise every legal front to stop the practice."

Retirement communities fall under the regulations of the federal Fair Housing Amendment Act of 1989, which states that at least one person living in at least 80 percent of a community's residences must be 55 or older. The Sun Cities also come under Maricopa County's Age Restricted Zoning Ordinance. Its

senior-overlay limitations state that no one younger than 19 may be a permanent resident of Sun City.

In its appeal, the HOA highlights five points:

- Scott has failed to "establish any exceptional or unusual situation" that would make the stay necessary.

- The "Board of Adjustment failed to take into account that (the 9-year-old) has been residing at the property for over a year prior to the granting" of the stay.

- "The granting of the Temporary Use Permit is detrimental to the purpose and intent of the Senior Citizen Overlay Zoning District."

- The 14 months granted is "unnecessary and excessive."

- The "Board of Adjustment otherwise acted

arbitrarily and capriciously."

The appeal asks that the Board of Adjustment ruling be overturned, that costs of the legal proceedings be returned to the HOA and that Shields be removed immediately from Sun City.

When the HOA reported Wednesday it planned to file an appeal, Scott said she and her family likely will be out of Sun City by the end of the summer. She said Shields has been living in Sun City for financial reasons, which should be under control sometime this summer. After that, the issue will be moot, she said.

Unger said he wasn't trying to single out Scott or her family unfairly, but said it was necessary to file the appeal in order to set a precedent for future cases "similar or parallel" to Scott's.

The HOA's battle against

Scott has garnered the organization both praise and criticism from Sun City residents. Unger said he has countless letters coming into his office accusing him of being callous and mean.

"It might not be popular, but this needs to be done to protect our community," he said.

Late last month, the HOA asked the Maricopa County Department of Planning and Zoning to appeal the ruling, but department officials said that wasn't their responsibility or jurisdiction. The HOA then filed its own appeal, which could take several weeks or months to make it to a courtroom.

The appeal was filed by HOA attorney Burt Cohen of the Scottsdale law firm of Curtis and Cohen.

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# Family honors promise to move from Sun City

**CC&R CONFLICT:**  
Variance had  
been granted for  
underage resident

**MICHAEL MARESH**  
DAILY NEWS-SUN

Neighbors say the vehicles and dogs are gone. They're not certain if Mary Scott's family has moved from her Sun City home, but they did see a moving van last week.

And they're extending best wishes to Scott's daughter and son-in-law, Susan and Perry Trantham; her grandson, Michael Shields, 21; and her granddaughter, Brittney, 10.

Telephone records show the Tranthams have moved to Peoria.

Under Sun City's Covenants, Conditions and Restrictions, Brittney Shields is not allowed to live in Sun City for more than 90 days in any calendar year.

A couple of neighbors think the family moved Aug. 5, making good on the promise they would be gone by month's end.

Calls to Scott and her daughter, Susan Trantham,

were not returned.

Scott took in her family after a severe car accident injured Michael more than a year ago.

Sun City is an age-restricted community under federal guidelines and the community's Covenants, Conditions and Restrictions prohibit people younger than 19 from living in Sun City for more than 90 days.

The Maricopa County Board of Adjustments in May granted Scott and her family a 14-month variance, which would have permitted Brittney to remain in the home until the end of the 2002-2003 school year.

Maricopa County has not been notified of the move. County officials do not require Scott to inform them of the move, but it is something they want to know.

"We have got calls to Scott and her lawyer to see what's going on," said Scott Isham, spokesman for Max Wilson, the District 4 representative on the Maricopa County Board of Supervisors.

Isham said he is surprised because last month Scott asked questions about an

**See Neighbors wish, A5**

## From A1

appeal hearing scheduled to be heard in Maricopa County Superior Court next week.

The Sun City Home Owners Association president said the family moving out of Sun City is a good thing — if it's true.

"I haven't heard they moved out," said Gerry Unger. "If the family has moved out, the problem is solved."

Unger said lawyers were scheduled to discuss the temporary-use permit Aug. 23, but added there is no point in the hearing if the

issue is resolved.

"If they have solved the problem, thank the Lord," he said.

Unger said HOA sent a letter to Scott in July inquiring about the family's plans for moving, but received no reply.

Scott's neighbors contacted by the Daily News-Sun on Tuesday wished the family well.

Jane Korsmeier, who lives across the street from Scott, said she is happy for the family.

"I think it's nice for the family and it is nice for the little girl," she said, adding

the 10-year-old will be closer to people her own age in the family's new residence.

Korsmeier said she was not against the girl living in Sun City, but was upset at the number of parked vehicles at the property.

"I didn't object to the little girl, but I objected to all the trucks and vans parked in the street. There were a lot of vehicles there," she said.

Another neighbor, Bob Carragher, said he never minded the family or the 10-year-old girl living in the retirement community.

"I hope they will be alright," he said. "We wish

them well." Carragher said he knew the family was going to move so he was not surprised when he saw a moving van Aug. 5.

"It didn't bother me all that much," he said. "All of us are going to fall on hard times at one time or another."

Jack Morrison said he knew the family intended to leave Sun City before the end of the summer.

"I am glad they did it now," he said. "I didn't have anything against the kid, just all the cars and dogs."

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© THE ARIZONA REPUBLIC SATURDAY, AUGUST 24, 2002

# Girl, 10, leaves Sun City

## Family's move settles uproar about age limit

By Dennis Godfrey  
The Arizona Republic

**SUN CITY** — A 10-year-old girl whose presence in this retirement community created an uproar has moved with her family to Peoria.

More than 600 Sun City residents signed petitions earlier this year asking the Maricopa County Board of Adjustment not to grant a variance allowing Brittney Shields to live in her grandmother's Sun City house.

The board in April gave Mary Scott, the grandmother, a 14-month variance allowing an underage child in the age-restricted community. The Sun City Homeowners Association appealed that ruling, seeking to force the child out immediately.

"I'm sorry for them because the understanding wasn't there," Scott said this week. "I'm sorry for the trouble that we caused."

She said the residents of Sun City should be at an age when they have compassion.

A devastating spinal cord injury to Scott's grandson, Michael Shields, was what brought her daughter's family to Sun City. The family needed financial help and a place big enough to accom-



Will Powers/The Arizona Republic

**Brittney Shields, 10, who did not meet the age requirement for living in Sun City, escapes the controversy at a home in Peoria with her parents and brother, Michael.**

modate the needs of a quadriplegic.

Residents had no problem with Michael. At 22, he met the criteria to live in Sun City as long as at least one member of the household is 55 or older. The problem was with his younger sister, who has turned 10 years old since the controversy erupted.

"We have never asked Mary Scott to sell her house or move out," said Gerald Unger, president of the homeowners association. "We never asked her child or her grandchildren to move out, except the one that is 9 years old. That's the problem."

Scott said her daughter, Susan Trantham, and her husband found a house that

will accommodate Michael and will allow Brittney to remain in Desert Harbor Elementary School, which is within walking distance of the house in Sun City.

"It has worked out marvelously. The Lord has provided a home," Scott said.

She will be moving as well, to live with her daughter's family to help care for Michael.

Unger said Sun City residents are not without compassion.

"There's 40,000 people out here. ... We've all had family problems. We've all got family problems now. If we relax our rules on this, we'll have a whole bunch of children running around Sun City. You can bet your life on it."

## THE ARIZONA REPUBLIC

THURSDAY, APRIL 11, 2002

# Board rules youngster can stay 14 more months in Sun City

By Dennis Godfrey  
The Arizona Republic

As Sun Citians muttered and shook their heads, a 9-year-old girl won the right Wednesday to remain in her grandmother's Sun City home, along with her parents and a severely injured

brother.

Brittney Shields can stay another 14 months in the house where her family moved after Brittney's brother was hurt in a 2000 traffic accident.

The Maricopa County Board of Adjustment's decision can be appealed to Superior Court

within 30 days.

Sun City has age-restricted zoning, meaning children are not allowed, except for short periods. The board temporarily eased that restriction for Brittney.

About 600 Sun City residents signed petitions or wrote the

board in opposition to allowing the child to continue to stay in Mary Scott's home. About 50 people attended the meeting to show their opposition.

There was no evidence that Brittney caused problems in Sun City, but residents fear her presence threatens the zoning

that allows areas to be designated as retirement communities.

However, the board, on a 3-1 vote, said that allowing the child to remain in Sun City temporarily would not open

See **SUN CITY** Page B7

From Page B1

the floodgates of children into the community.

Brittney's mother, Susan Trantham, said 14 months would be adequate for the family to get another house.

"I'm very relieved. This takes an incredible load off our shoulders," she said.

The family moved into Scott's home because it could accommodate the physical needs of Michael Shields after he suffered a spinal injury in an auto accident and because of the financial burden caused by his care.

Michael, 22, suffered a spi-

nal cord injury. He attended Wednesday's hearing.

"I totally understand how the people of Sun City feel," he said. "But this is not a permanent situation."

He legally can live in Sun City; the rules prohibit only people younger than 19. It is his sister who makes the neighbors nervous. Brittney did not attend the hearing. Her mother showed the board a picture of the child, an act that drew more angry mutterings from the older crowd.

Officers of the Sun City Homeowners Association said Brittney moved with her family into Sun City in mid-2000.

"Our feeling is, they have had their two years and it's time for her to move out," said Kenneth Tyma, an association employee. The group has not decided whether to appeal.

"We have great compassion for personal problems, but we're talking in behalf of 27,000 homeowners," said Gerald Unger, association president.

"I feel bad, not because of the opposition, but because people are so threatened," Scott said of her neighbors.

Reach the reporter at dennis.godfrey@arizonarepublic.com or (602) 444-6921.

Daily News-Sun • Thursday, April 11, 2002

# Sun Cities' age restrictions intact

**VARIANCE:** Hearing before county panel validates procedural process

**JOHN SOKOLICH**  
DAILY NEWS-SUN

Sun City's age overlay remains secure despite Maricopa County Board of Adjustment's granting a 14-month reprieve to a 9-year-old living in the community.

According to Bill FitzGerald of the Maricopa County Attorney's Office, the ruling will not hurt Sun City's age-restriction overlay, but the officials must ensure a canvass of residents is up to date.

"The ruling itself does not set a precedent for the community," he said. "This was taken on a specific case, and if another were to come up, it would be handled on a specific case as well. But the

ruling was also made on good faith that Sun City is following the age-restriction rules."

Retirement communities fall under the purview of the federal Fair Housing Amendment Act of 1989, which requires a minimum of 80 percent of homes have at least one person living there who is 55 or older.

The Sun Cities also come under Maricopa County's Age Restricted Zoning Ordinance. Its senior-overlay limitations state that no one younger than 19 may be a permanent resident.

Even though 99 percent of the people living in Sun City are 55 or older according to the 2000 Census,

area officials have to independently verify the percentage because Maricopa County Attorney Rick Romley last year ceased accepting the census.

"There are just too many changes in 10 years," FitzGerald said. "The law states that retirement communities must conduct the survey every two years, and we are just asking them to follow that law."

Since Romley's decision, the Recreation Centers of Sun City has been canvassing members to show the community meets the limits.

"In August, we were able to prove that 65 percent of the community was 55 years or older," said Jerry Swintek, RCSC president. "We are now up to 78.5 percent. In the next 60 days, we will be able to prove that at least

80 percent of the community is 55 years old or older."

Canvassing has been hitting snags in recent months because the RCSC is using its fee cards as a way to log residents' ages. Before 1991, dates of birth weren't included on the cards, prompting officials to seek alternate means to gather the data, such as phone calls and letters, Swintek said.

"Within the next few years, we will be able to determine on a yearly basis that 95 percent of our community is 55 years or older," he said. "There is no way in hell that we don't meet the restriction. I am 200 percent sure of it."

In the past five years, four variances have been granted in Sun City for

hardship cases, according to county records.

Maricopa County Planning and Zoning Commissioner Carole Hubbs said not many people have asked for variances in the last few years, but those who sought them had them granted.

Hubbs said there is a fax-on-demand line at 602-506-0800 people may call if they wish to apply for a variance. Those calling should request forms 580, 581, 582 and 583.

The request will be posted for 10 days, and if there are no objections, the variance is automatic. If there is an objection, the commission sets a hearing.

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OVER



**MOLLIE J. HOPPES/DAILY NEWS-SUN**

Left, Michael Shields, 22, talks to reporters outside the Board of Supervisors auditorium Wednesday after the Board of Adjustment voted 3-1 to extend a variance to grandmother Mary Scott, center, allowing Shields' sister to remain in Scott's household 14 more months. Shields' mother Susan Trantham looks on. Right, attorney Dave Hadley, representing the Sun City Home Owners Association, explains Wednesday's decision to gathered Sun Citizens.

# 9-year-old can stay 14 months

## COUNTY BOARD OF ADJUSTMENT: Ruling grants temporary-use permit for granddaughter of Sun City woman

MICHAEL MARESH  
DAILY NEWS-SUN

Nine-year-old Brittney Shields woke up in her grandmother's Sun City home this morning and left for school, a routine a county board has decided the retirement community must learn to live with through the next school year.

Citing a need to keep Brittney Shields' family intact, the Maricopa County Board of Adjustment on Wednesday granted a 14-month temporary-use permit that allows the girl to remain in the age-restricted community with her family.

Mary Scott said her granddaughter plays an integral role in caring for her grandson, who has some serious health concerns following a car accident more than a year ago.

"If you do not grant this temporary-use permit, my family will not move, but Brittney will be sent elsewhere," she told the board. "She does not understand the variance and blames herself."

Gerry Unger, president of the Sun City Homeowners Association, was surprised and upset with the ruling.

"It's a county decision," Unger said. "It is not according to the CC&Rs."

Unger said a 14-month variance is too long.

"They got it," he said. "It is excessive — it is their decision."

Unger and other members of the HOA, along with several residents, were on hand Wednesday to try to block the variance.

The HOA president said the association will get together in a few days to decide whether to appeal the ruling. An appeal must be filed within 30 days.

Scott said she has no doubt an appeal is coming.

"Oh sure, why wouldn't they?" she said. "That is their job."

Scott took in daughter and son-in-law Susan and Perry Trantham, grandson Michael Shields, 22, and Brittney after Michael was injured.

Sun City is an age-restricted community governed by federal guidelines and the community's covenants, conditions and restrictions prohibiting people younger than 19 from living in Sun City more than 90 days.

Retirement communities fall under the federal Fair Housing Amendment Act of 1989, which says



MOLLIE J. HOPPES/DAILY NEWS-SUN

Susan Trantham drops her daughter, Brittney Shields, at school this morning. Brittney's grandmother, Mary Scott, received a variance from the Maricopa County Board of Adjustment allowing Brittney to live with her for an additional 14 months.

OVER

VF AGE RESTRICTIONS

at least one person living in a home must be 55 years old or older. The Sun Cities also come under Maricopa County's Age Restricted Zoning Ordinance. Its senior-overlay regulations mandate that no one younger than 19 reside permanently in Sun City.

Scott said the issue was about her family and is only temporary.

"It was never my intention to break the rules of a retirement community," Scott informed the board. "My 2,100-square-foot home is adequate until Michael is stabilized and the family can get back on their feet."

Susan Trantham, Scott's daughter and mother of the 9-year-old, was thankful for the ruling.

"It takes an incredible load off our shoulders," she said.

While Unger said the ruling was surprising, he believes it will not have an effect on how the association does business.

"It is not a procedure on our CC&Rs," he said. "We will continue to uphold our age restriction."

Michael Shields said his family has been a pillar of strength during his ordeal.

"I would not be as strong today if it was not for my sister and my family," he said. "This is not a permanent solution. We are trying to get back on our feet."

County board member Michael Rotchford said the focus needed to

be on the girl, and since acceptance is so vital for a young child, he moved for a three-month variance, although colleagues refused to second his motion.

Chairwoman Mary Beth Rowland said keeping the family intact must be the primary focus.

"The unity of the family is very important," Rowland said. "Sometimes life happens that is out of our control. I have concerns for the family."

#### From A1

Board member Rod Jarvis asked the family how long it would need to get back on its feet, and Trantham said the plan is to move by the end of summer.

Jarvis, while telling the Sun City residents he does not disrespect their conditions, covenants and restrictions, said precedent has already been established. Four times in the past five years, the county has granted variances for hardship cases.

"There are always going to be exceptions to the rule," Jarvis said. "That's the price we pay for having a democracy. Go beyond yourself, and I am sure you will admit there is a human (side)."

When Jarvis mentioned a 14-month temporary-use permit, a murmur ran through the Sun City residents in attendance, and

Rowland had to caution the audience.

As the vote was taken, HOA public-information officer Ken Tyma shook his head in disbelief. He said since the granddaughter has moved into the neighborhood, there have been problems. Scott, he said, purposely tried to mislead the association.

The board received a petition from the HOA with 582 resident signatures opposing the family living in the neighborhood.

Resident Barbara Miller said she moved to Sun City for the adult amenities.

"If we were called on to care for our grandchildren, we would move," Miller said.

She said the message the family is sending to the 9-year-old is that it is OK to break the rules.

Sun Citian Lester Christensen agreed.

"The main thing is the CC&Rs and government regulations were explained verbally and written to everyone before they moved in," he said. "It will open the floodgates because everyone will know kids are allowed in Sun City."

Resident George Bender said it is "kind of funny how temporary things become permanent. We can't let this happen in Sun City."

Scott said her family is making progress, but needs more time. Michael Shields said he is happy his family will be able to stay together.

"It is amazing to know my family has caused this much grief," he said. "I have sympathy for the homeowners and the Home Owners Association."

"I am thankful for the decision. I am grateful there are people in Sun City who told us they have no problems with us. They took the time to learn the facts."

Daily News-Sun • Saturday, Jan. 5 and Sunday, Jan. 6, 2002

# Adjustment for family

**HARDSHIP CASE:**  
HOA leads  
opposition to Sun  
City woman's  
predicament

**MICHAEL MARESH**  
DAILY NEWS-SUN

The Maricopa County Board of Adjustment will make the final decision in the next few months on whether a 9-year-old girl can continue to live with her grandmother in Sun City.

Sun City resident Mary Scott took in her daughter and son-in-law, Susan and Perry Trantham; her grandson, Michael Shields, 21; and her granddaughter, Brittney Shields, 9, after a severe car accident injured Michael.

The family has been living in Sun City with Scott for most of the year, but Brittney is violating the Sun City Home Owners Association's covenants, conditions and restrictions because of her age.

Scott filed for a variance from the county, which required her to post a notice on her property. The notice informed neighbors of what she was doing.

If the county had received no complaints, the variance would have automatically been granted. But more than 100 residents complained to the

county, so a board of adjustment meeting will take place in late January or February.

A petition had been drafted and passed around Scott's neighborhood, opposing Brittney living in the retirement community.

The variance, if granted, would be for two years. Scott, though, said her family's hope is to not use the entire two years.

Scott said many of her neighbors do not know about her family's situation, and others did not know about it until she was forced to post the notice at her residence.

Ione Boynton of the Sun City Home Owners Association said Scott has applied to the county for a variance, and the HOA and more than 100 residents are opposed to the request and have let the county know of their stance.

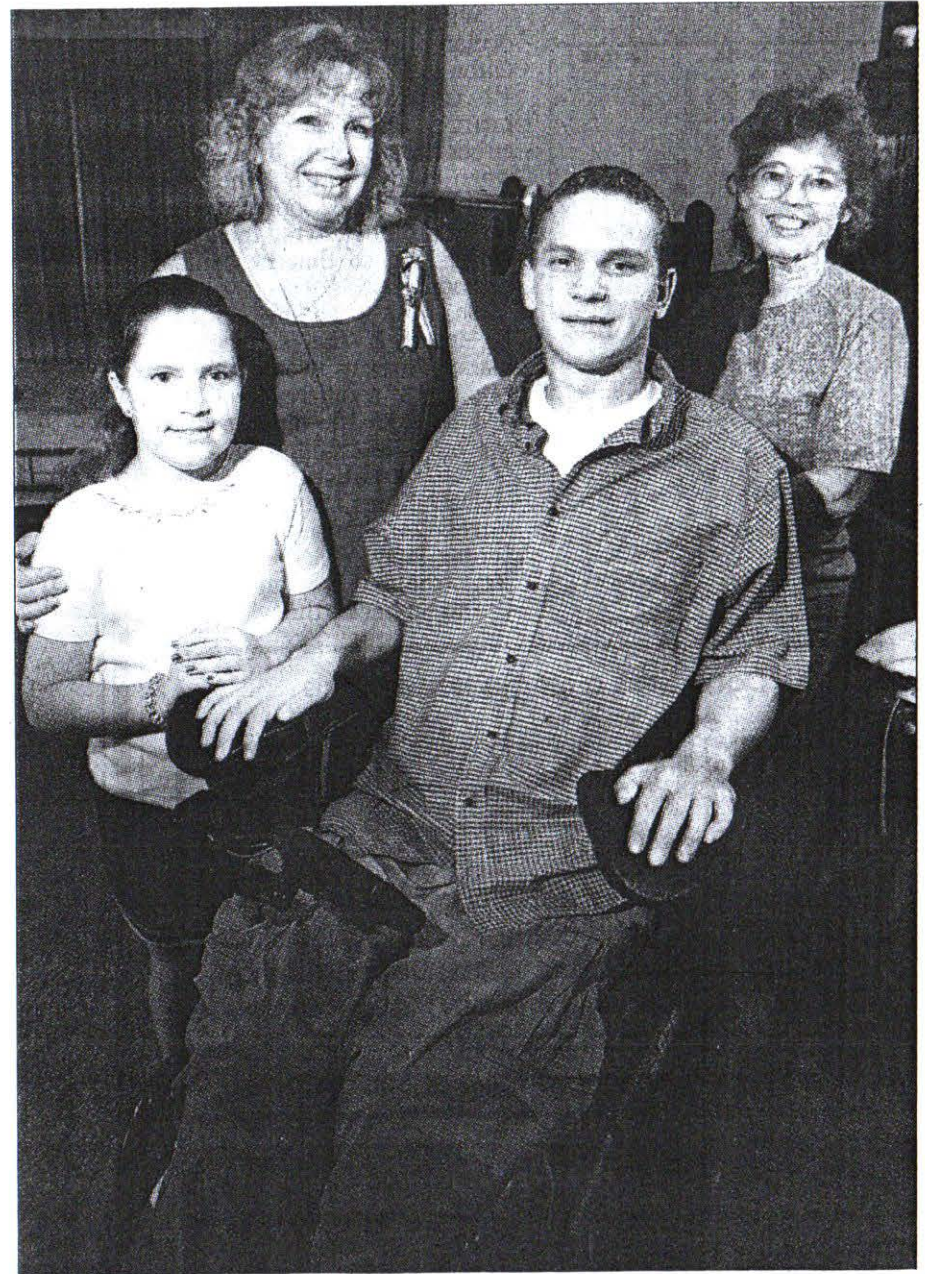
Scott believes her relationship with her neighbors could be damaged by the impending hearing.

"What this will do is put my neighbors and me on opposite sides," she said.

Scott will tell the board the facts about the hardship her family has endured and will then abide by its decision.

"I trust in the Lord Jesus Christ," Scott said. "We will go forth in whatever they decide. I hope the board will consider and allow us ways to expand on our views."

**See Residents sign, A5**



STEVE CHERNEK/DAILY NEWS-SUN

Michael Shields, who suffered a spinal cord injury in a car accident last year, lives in Sun City with his grandmother, Mary Scott, right, his sister, Brittney, and their mother, Susan Trantham.

OVER

## From A1

"It is not going to cause a change in Sun City," she said, adding if there was an alternative and feasible solution, she would have looked into it.

"I never thought about any of my children having a catastrophe," she said.

Although more than 100 residents are opposed to Scott's granddaughter living with her, some Sun Citians said they do not mind.

Charlie Zin, who lives a few houses away from Scott, sees no reason why the granddaughter can't stay.

"It is just as much discrimination to say you were born too soon than to say you can't (live here) due to your color," Zin said. "It violates the constitution."

Zin, who did not know of the petition, said he would have given the organizers an earful if they came to his doorstep.

"They probably would have gotten their ears burned," he said. "The kid has a right to live here. It's illegal to say you can't live in a certain area."

Zin's neighbor, Jack Morrison, said he read part of the notice that Scott had posted with some interest.

"I don't like to interfere with other people, but you have to follow the (covenants, conditions and restrictions)," he said.

Louise Shock, another neighbor, said she had no qualms about the child living in Sun City given the circumstances.

"I think it's fine," she said. "It sounds pretty legitimate to me."

Shock does not have any grandchildren, but said she is certain she would react like Scott in a similar situation.

"If I did (have grandchildren) and if they had to be taken care of I would take care of them," she said.

James McGrath agreed with his neighbors.

"I would have no objection to a young guy being here," he said. "It would bring a little life to (the neighborhood)."

McGrath, though, said he would object to several children living in the neighborhood.

"We don't need that many," he said. "After all, this is an old people's community."

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# HOA, RCSC connect to verify age overlay

## APPEAL TO HUD: Officials map strategies to resolve issue

JOHN SOKOLICH  
DAILY NEWS-SUN

A possible way for Sun City to keep its age overlay without conducting a household survey every two years is to appeal to the Department of Housing and Urban Development.

Sun City has relied on using census data in the past to show it meets its age requirements, but the Maricopa County Attorney's Office threw the community a curve ball this year by not accepting the census data.

If HUD allows for the census data to be used, however, the county said it was willing to drop the two-year household survey as verification.

In order for a retirement community to keep its age overlay, it is required by law to conduct a biennial survey to show that at least 80 percent of the units within the community are occupied by someone who is 55 years or older.

Sun City has not conducted the two-year surveys, but rather depended on U.S. Census data instead, which is conducted once every 10 years. This year, though, the Maricopa County Attorney's Office refused to accept the census numbers as verification.

Even though 99 percent of the people living in Sun City are 55 or older, according to the

census, area officials have to independently prove it because Maricopa County Attorney Rick Romley is not accepting the census data anymore. Romley has stated the 10-year time frame between each census cannot accurately represent the changes in the community on a year-to-year basis.

"There are just too many changes in 10 years," said Bill FitzGerald, spokesman for the Maricopa County Attorney's Office. "The law states that retirement communities must conduct the survey every two years, and we are just asking them to follow that law."

The possible lifeline of appealing to HUD could change all of that.

"If HUD goes for it, that's enough for (Romley)," FitzGerald said. "But until that happens, we are going to require Sun City to meet the guidelines of the law."

Attorneys for the Sun City Home Owners Association and the Recreation Centers of Sun City have been conferring with HUD officials to work out an agreement on the issue.

Ione Boynton of HOA wouldn't comment on the specifics of the issue but did confirm that Sun City officials turned the matter over to their legal department.

FitzGerald said Sun City's appeal to HUD is not something he would comment on either, but reiterated that using the 2000 census data does not meet legal requirements for senior overlay verification.

"What we want is for them to follow what the law says," FitzGerald said. "Senior

**See HOA, RCSC, A5**

### From A1

communities are responsible for conducting the survey every two years. The law does not allow for them to fall back on old numbers."

The trouble with the survey came to light two weeks ago when Romley spoke at HOA's annual meeting. He said Sun City was in danger of losing its overlay if it did not conduct the survey soon. Although the survey comes under the authority of the county, Maricopa County Board of Supervisors Chairwoman Jan Brewer said the county does not have the resources to conduct such surveys.

After the meeting, HOA President Ed McCrea said he was not surprised at Romley's comments, but assured residents that a plan was already in place to canvass residents and get a survey completed. He added that he understands that the county cannot conduct the survey, therefore the plan would work well for both Sun City and the county.

The plan includes asking residents for their birthdays when they apply for or renew their recreation centers cards. Each resident's age is put into the community's computer system where it

can be recalled later to generate a printout of ages. Those ages can then be used as the biennial survey.

Jerry Swintek, RCSC president, said there aren't any hard and fast numbers completed yet in the new RCSC card survey, but he expects 100 percent of them will be completed by next month.

In addition to conducting the survey through recreation centers cards, HOA and RCSC are formulating other ways to collect the necessary data without having 40,000 residents coming to the RCSC office to confirm the ages of individuals in their household.

The plan is not completed yet, but Boynton said people who have questions about whether their ages will be counted correctly can call the HOA office at 974-4718.

The change in policy for Sun City came after the 2000 census figures were released earlier this year. Even though data show 99 percent of Sun City residents are 55 or older, the growth and change in the Northwest Valley prompted county officials to closer analyze retirement community populations.

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# ROMLEY: Sun City could lose age restriction

**HOA: Survey of every household must be completed if census not accepted on federal level**

**JEANNE WINOGRAD**  
DAILY NEWS-SUN

Sun City Home Owners Association officials learned Friday the community is at risk of losing its age overlay if it doesn't soon complete a survey of residents.

"There's a specific procedure you must follow required by federal law for the age-overlay exemption," said Maricopa County Attorney Rick Romley, who attended the HOA meeting along with Maricopa County Board of Supervisors Chairwoman Jan Brewer. A couple of hundred residents also attended the annual membership meeting.

"You must conduct an actual survey and show that at least one person in every house is over 55 years of age in 80 percent of cases," Romley said. "Sun City has not complied with this yet."

The survey is required once a year.

While Romley acknowledged conducting such a survey is "an onerous task," he suggested HOA officials ask the attorney general or Housing and Urban Development, both of which have ultimate enforcement jurisdiction, whether the 2000 census would be acceptable.

"If they say the census will work, the Maricopa Attorney will approve it as the survey," Romley said. "Otherwise, technically you're holding yourself up to liability."

"It's a very serious situation," Brewer added. "You need to get on the ball."

Romley said his office would help enforce any difficult senior-overlay violations once the survey has been approved.

Another issue the HOA is tackling is the noise and dust generated by sand and gravel operations along the Agua Fria River.

Ed McCrea, HOA president, thanked "bulldog" Director Gordon Rosier, who, along with volunteer Arnie Bistrup, has been trying to stop Vulcan Materials Co. from

operating its asphalt-recycling plant in El Mirage.

Romley said the operations in the Agua Fria riverbed are protected by a powerful mining lobby.

"We've developed a program to go after trucks kicking up dust," Romley said. "We've issued so many violations, we've generated \$600,000 in revenue."

Brewer said only the Legislature can initiate legislation governing the sand and gravel industry.

"I don't think the Legislature would want to see me down there," Brewer said. "The county only has authority over air and truck speed. We monitor these unannounced. We call the Arizona Department of Environmental Quality and usually the issue is gone by the time we get out there. I don't know what we can do other than posting someone there 24 hours a day."

On less volatile issues, Gerry Unger, HOA vice president, reported the HOA staff fields 600 telephone calls a week, "about 30,000 calls per year. Your dues of \$8 would purchase the average pizza, but you get a year's worth of benefit here."

HOA also has closed 722 of 768 rules-violations claims that were opened. Of the rules violations investigated, Unger noted:

- 40 cases of underage residents were investigated and resolved.
- 302 cases of recreational vehicles parking longer than 72 hours were investigated, and 298 of those were resolved.
- 36 complaints about businesses were looked into, and all of those were resolved.

Among HOA's other efforts over the past year, McCrea pointed to the group's work to bring a Central Arizona Project pipeline to the community to water the golf courses, and its attempts to bring more stores to neighborhood shopping centers. HOA also has focused on bus transportation and improving railroad crossings at 99th, 103rd, 107th and 111th avenues.

"The big problem is volunteers," McCrea said. He encouraged people to join HOA's other volunteers to help keep the community a beautiful place to live.

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JOY LAMBERT /

Keith Pasquinzo joins pickets on 99th Avenue protesting a presentation of Sun City real estate appraiser Joanna Conde, who has proposed lowering the age limit for Sun City residency.

# Push to lower age requirements spurs Sun City protesters

**LOCAL APPRAISER:** Property values will increase if minimum age is reduced

JEANNE WINOGRAD  
DAILY NEWS-SUN

A Sun City real estate appraiser is irking some residents by proposing a drop in homeowner age restrictions from 55 to 50 for 20 percent of new homebuyers.

Joanna M. Conde, owner of Conde Appraisal Associates in Sun City, said she believes younger owners will bring in more revenue for Sun City Recreation Centers facilities and will improve property values in the community.

Speaking to a group of about 60 people who attended her presentation at the Sun City Bell Library on

Monday, Conde, who doesn't live in Sun City, said: "When people say they don't want their property values to go up and they don't care what their house sells for, I tell them I hope they never have to go into long-term care or need a reverse mortgage to pay medical expenses."

Conde said she and her husband, Carl, had parents living in Sun City whose houses remained vacant for several years when the parents had to go into long-term care. Conde said helping sick parents and working with hundreds of Sun Citizens each year who are trying to sell their properties has made her aware of issues affecting Sun City property values and status as a retirement community.

Conde found herself on the defensive at certain points in her presentation because she had previously proposed dropping the age restriction to 40. That suggestion triggered several people to picket outside the

library.

"We're out here with additional signs because Joanna Conde is perpetuating something we don't want," said George Johnston, who was among six residents who picketed Conde's speech along the 99th Avenue entrance to the library. "We do not want the age limit dropped even to the percentage allowed by the feds. With 40-year-olds, we'll have kids here, and we'll lose our retirement status. We'd have to support schools. But we came here because it's a retirement community."

Some of those picketing said dropping the restriction even to 45 for 50 for 20 percent of first-time buyers is not acceptable.

"That's the camel getting its nose under the tent," said Mary Phillips of Sun City. "These are retirement homes, not adult day care."

**OVER** See Age restriction, A5

## From A1

here don't need to work full time. They volunteer, and we need volunteers. How would you like to start the football game and have the rules changed at half-time?"

Phillips and Johnston pointed to Youngtown as an example of what can happen when age restrictions are not enforced. The town lost its status as a retirement community in 1998.

Conde said her purpose in suggesting that younger people be allowed to buy homes here is in part motivated by a desire to prevent Sun Citians from losing the age-overlay.

Current federal requirements for senior communities require "reliable surveys and affidavits regarding homeownership, but no one is doing it here," Conde said. "That fact alone could result in an overlay loss."

However, Jerry Unger, vice president of the Sun City Home Owners Association, said Sun City is following the rules to maintain its overlay.

"In order to maintain a

senior community, you have to have a minimum of people ages 55 years and older in each house," Unger said. "It's 100 percent here, except in hardship cases — the HOA may grant variances unless it would violate the 80 percent federal regulations. Our CC&Rs passed in the community say the same thing."

"They have to maintain requirements in order to keep the age overlay," Conde said. "You need a poll of 1,000 people. Right now, no one could give you a percentage of houses occupied by persons age 55 years or older. It's a responsibility that needs to be assumed. It is not the Realtors' job because they don't handle every transaction. Houses go into trusts. We can't know what happens with those. And you don't get rec center documents unless you ask for them."

Ione Boynton, executive director of the Sun City Home Owners Association, said real estate agents must give new homeowners facilities agreements and deed

restrictions, and homeowners request the rec center card when they visit the rec center.

"Real estate agents are supposed to be honest about providing the documents," Boynton said.

Unger said HOA is "constantly in the position of identifying who lives here.

"We just completed a report to the county in conjunction with the rec centers," he said. "It's voluntary, but we still have the legal responsibility to establish the report to the county. We're 95 percent in compliance, there are exceptions, special cases. When we get complaints, we investigate it. The county has an ordinance that establishes Sun City as an age-restricted senior community. We work with the county on this, we do our investigation, we defer to the county, and the county has ultimate legal responsibility. We have responsibility over the deed restrictions in the CC&Rs."

Conde said she believes lowering the age will raise

property values.

"If Sun City is known as low-income housing, it affects the value of your house," Conde said. "Most homes on the market largely have not been updated." Conde seemed to be using the term 'low-income' in the context of a property not increasing proportionately with the surrounding region.

Using 2000 census data, Conde said that in recent years communities have grown much faster than the Sun Cities in population and political strength.

Census data for 2000 shows that Sun City, which has been built out, increased by almost 200 residents since the 1990 Census. Sun City cannot grow beyond its boundaries. Sun City West was not built out in 1990. By 2000, its population almost doubled. Moreover, all-adult communities typically enjoy political clout because voting turnout is traditionally heavy.

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JUNE 6-12, 2001

SUN CITIES INDEPENDENT

# Younger residents populating Sun Cities

## Children in Sun City concerns HOA

By MIKE RUSSO  
Independent Newspapers

While Arizona and the nation is aging relatively quickly as Baby Boomers approach retirement age, Sun City is bucking the trend and aging at a slower rate.

On the surface it may seem as though Sun Citians have discovered the "Fountain of Youth." However, the answer is an influx of much younger residents.

Although Sun City is an age-restricted community and its deed restrictions prohibit permanent residence of people 18 years of age and

younger, the number of residents 19 and under (19 was a Census Bureau cutoff point) has grown to 205, according to the 2000 U.S. census.

The rising number of underage residents is a concern for the Sun City Home Owners Association, according to Gordon Rosier, chairman of the HOA Land Use Committee.

"I am not sure how serious this whole situation is," Mr. Rosier said. But he said complaints of underage residents have been on the rise.

"In April there were 26 complaints in Sun City handled by HOA's information officers," he

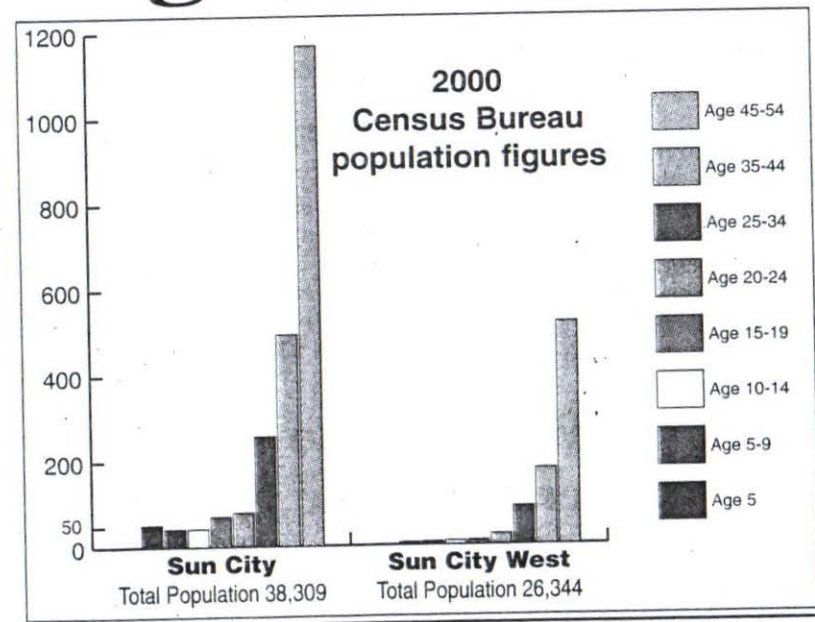
said. "We received 23. That number (of complaints) was the highest we ever had for one month."

Mr. Rosier explained that part of the problem is symptomatic of a nationwide trend — adult children returning to live with their parents and bringing along their children.

While HOA is sympathetic to the plight of the displaced people, it is also charged with enforcing deed restrictions, which includes preserving the community's age-restricted status.

"They (children) may stay in the

See ■ RESIDENTS, Page 3



*over*

residence for 90 days," Mr. Rosier said. "The only way we can preserve the age overlay is if the community adheres to rules and reports any violations."

Once a written complaint of an underage resident is filed with HOA an information officer investigates. If sufficient evidence is obtained determining the underage residency, a letter is sent to the property owners informing him or her of the violation. The property owner then has 30 days to correct the violation, according to Mr. Rosier.

"We follow our procedures, if they still don't move, we engage our attorney," Mr. Rosier said.

"HOA is committed to taking a proactive position with all of our CC&Rs and, with the county legal staff, we will litigate any underage violations. At the same time, residents must take responsibility and notify HOA so corrective action can be taken," Mr. Rosier said.

"There is a trend of an increased number of children living in Sun City," Mr. Rosier said.

In an effort to ferret out violators, HOA will "start calling the local school districts and asking them if they have children enrolled using a Sun City address," according to Mr. Rosier. He said he has seen school buses picking up children in Sun City.

Mr. Rosier said many people do not realize how serious a problem underage residency is for the retirement community.

He said some people are reluctant to turn in violators because they are grandparents and are sympathetic toward the affected families.

However, as the number of underage people inhabiting the community rises, it jeopardizes the age overlay.

"The (federal) law states we need to show that at least 80 percent of

the residents are 55 or older," Mr. Riser said.

The 2002 census indicates the number of people under the age of 55 living in Sun City has risen to 2,204, or 5.75 percent of the community's 38,309 residents.

The situation is not as pronounced in Sun City West.

Census data indicates there are only 32 youngsters living in Sun City West. But Lefty Ward, chairman of the Property Owners and Residents Association CC&R Committee, thinks that figure is inflated.

"A lot of people get confused and their grandchildren are visiting when they fill out the census form and they mistakenly report them as

residents," Mr. Ward explained.

"I have a problem how the census form is done," he continued.

PORA handles underage complaints much like HOA. Once a written complaint is filed, an investigator checks the validity of the complaint.

"PORA always get complaints about underage children," said Randy Fuller, PORA president. "It is an ongoing problem.

"It is very low key and few in numbers but we have had people who came in and filed a complaint about underage children living at residence," he added.

However, many of the complaints prove groundless, according to Mr. Ward.

"They are usually grandchildren visiting their grandparents," he said. "To date, only a couple of people have been found living in their parents' house after the parents died."

Sun City West's population under the age of 55 was 835, or 3.17 percent, according to census data, so Sun City West is in no imminent danger of losing its age overlay. However, diligence is stressed by Mr. Fuller.

"Age restriction, under federal law, states you must stay below 20 percent (underage residents) to maintain the senior overlay. At our last report, submitted by Recreation Centers of Sun City West, we do not have a problem," Mr. Fuller said.

Daily News-Sun • Wednesday, May 23, 2001

# Report: Children live in Sun Cities, but do they really?

**RULEBREAKERS:** Census data may reflect visitors, not residents as report lists 157 kids in Sun Cities

STAFF REPORT

If you believe the rules, there are no kids in Sun City or Sun City West.

Deed restrictions and county zoning prevent people under age 19 from living here for more than 90 days. They may visit but cannot become permanent residents.

But that doesn't mean it doesn't happen, as the April 1, 2000, census figures document.

On that day, in Sun City, residents responding to the census questionnaire said there were 135 people living in their homes who were 14 years old or younger.

Sun City West residents listed 22 youngsters 14 or below as living in their homes.

How old are these youths? There are 51 people listed in Sun City households under age 4; 42 residents ages 5 to 9; 42 people ages 10 to 14; and 70 people ages 15 to 19.

That makes 135 "illegals" and 70 "possible illegals."

In Sun City West, householders filling out the questionnaire listed six residents below age 4; seven people ages 5-9; nine people ages 10 to 14; and 10 people ages 15 to 19. That's 22 who don't

meet the age restrictions, and another 10 who likely don't.

But, said Tom T. Rex at Arizona State University, the numbers probably don't reflect reality.

Decisions on where someone lives are self-declared, and it's entirely possible that a parent or grandparent who had kids in the house for a week or two, and who read the question literally, "How many people ... live in this dwelling?" on April 1, marked down the kids.

Population figures by ZIP code do not coincide with the boundaries of Sun City or Sun City West, so ZIP code listings

typically show hundreds of

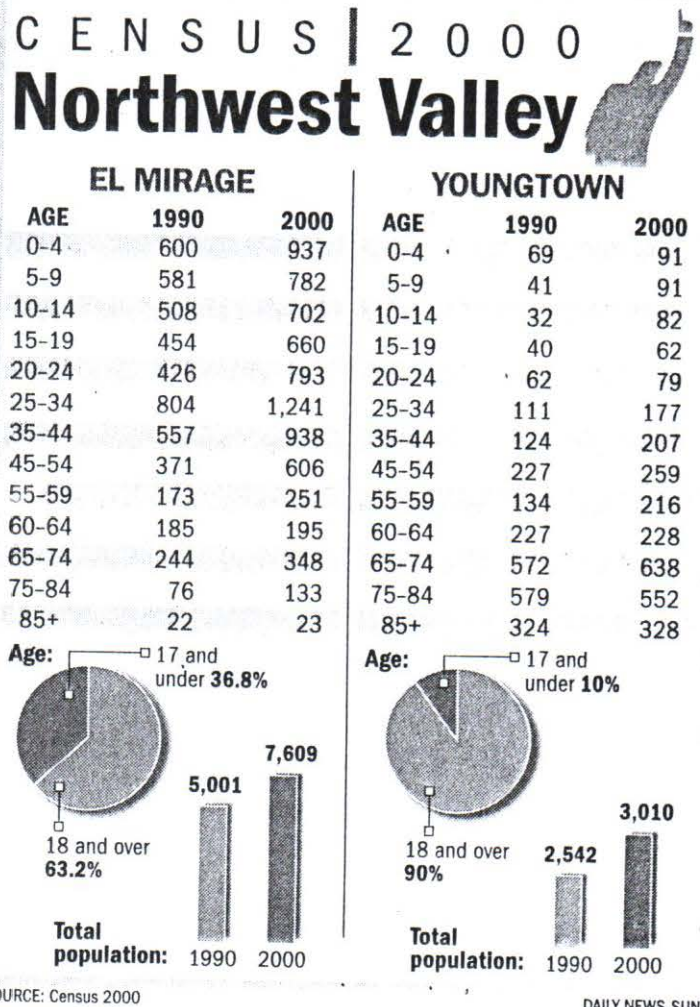
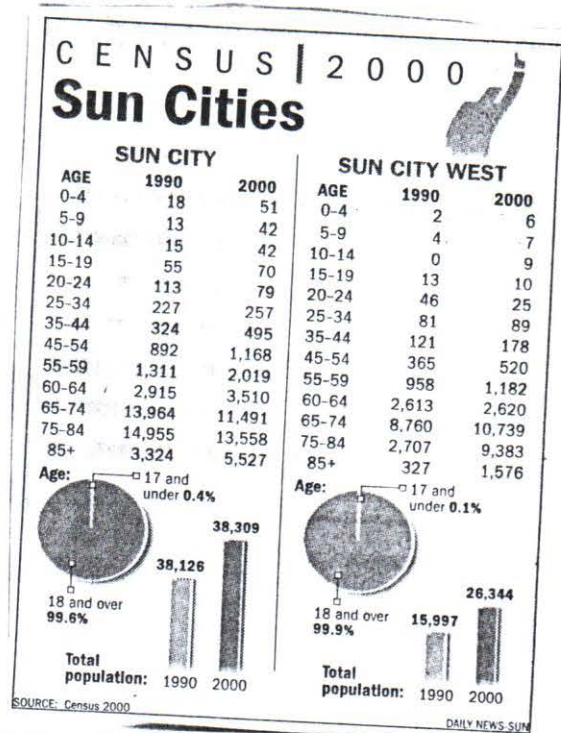
youngsters in

Sun City, including those who actually live north of Union Hills Drive in Peoria, where mail falls in a Sun City zip code.

And some residents of Surprise and unincorporated areas on North 163rd Avenue west of Sun City West are served by Sun City or Sun City West post offices, so ZIP data show youngsters there, too.

But the census treats Sun City and Sun City West as unique areas because of their size and economic importance. They are called "census designated places" and listed only with data from "within the walls."

Please see Northwest Valley census figures on page A3, A4



SUN CITIES INDEPENDENT

SEPT. 12-18, 2001

# IS SUN CITY'S LUSTER FADING?

## Reducing minimum age may be solution

(Editor's note: This is the second in a three-part series on Sun City's property values and potential challenges facing the community.)

By **MIKE RUSSO**  
Independent Newspapers

Newspaper and magazine advertisements appearing in late 1959 touting the wonders of Sun City appealed to people "who have reached the golden age of 50 or more... are retired, semi-retired or planning retirement and want to actively enjoy the best years of your life!"

Some people think a return to days gone by may restore some of the community's luster.

Joanna Condé, a Sun City real estate appraiser, believes one way of jump-starting the community's stagnating housing market, is to return to a lower minimum age for residency, while retaining other aspects of the community's age overlay that prohibits the full-time residency

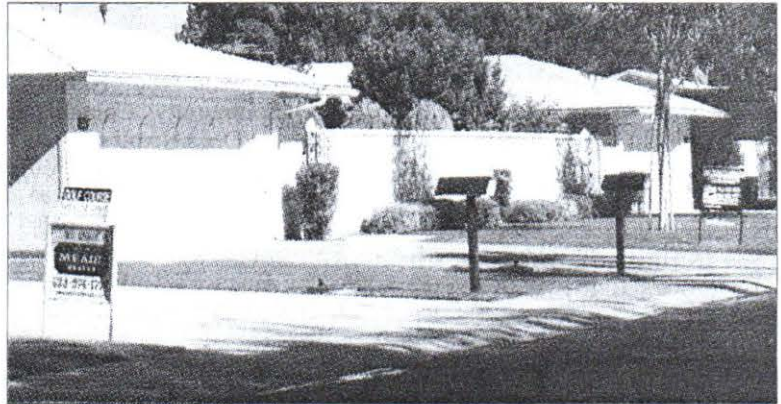


Photo by MIKE RUSSO/Independent Newspapers

For Sale signs are a common sight in the Sun Cities but real estate appraiser Joanna Condé believes changes are needed to improve the local housing market.

of children.

"... The 55-year age restriction is the biggest detriment to increasing housing values. It limits the number of buyers," Ms. Condé wrote in a report she has compiled, "Is the Sun Setting on Sun City?"

Ms. Condé believes reducing the minimum age of residency, to possibly as low as 40, would provide a

three-prong benefit:

- Expand the market of potential buyers.
- Younger people are more likely to renovate their house.
- Younger people are more likely to use recreational facilities.

"A major step in the revitalization of Sun City would be to reduce the age to obtain a recreation card for residents from 55 to 40," she states.

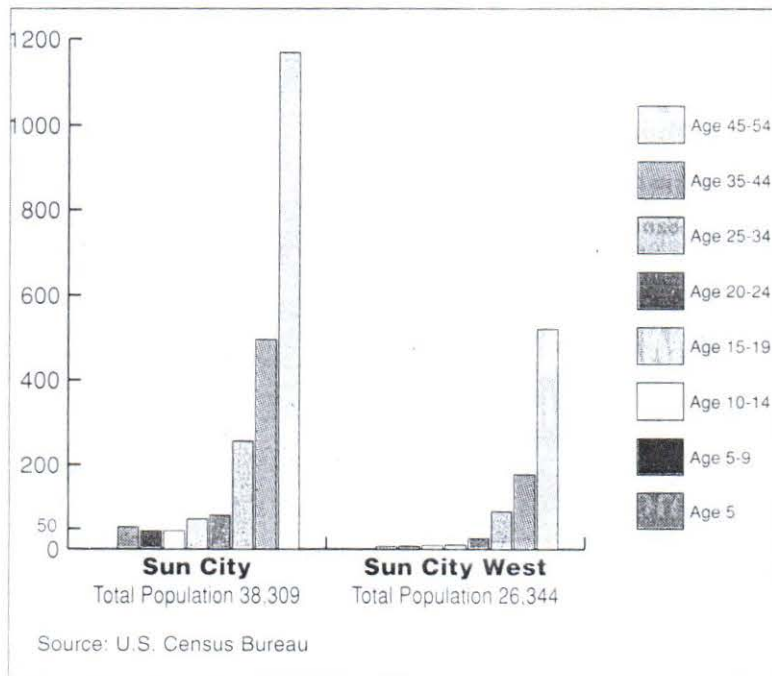
Realtor Steve Meade believes Ms. Condé's suggestion has some merit.

"Joanna is very thorough," Mr. Meade said.

Although he thinks the suggestion warrants further investigation, Mr. Meade quickly points out, "I would not want to do anything to jeopardize the age overlay. There would need to be a preventative approach."

Ms. Condé said a system could be implemented to track the age of home buyers to make sure the age overlay was not jeopardized.

"Through the Rec Centers would be the easiest way to track



OVER



it," she says.

However, Jerry Swintek, president of the RCSC board of directors, disagrees.

"We have no means of controlling the homes sold by individual Realtors within Sun City," Mr. Swintek remarks.

He fears too many homes would be sold to underage residents and the community may lose its age overlay.

"We don't get the age information on new residents until after the house sale closes. We have no authority to tell the Realtors they cannot sell a house to someone under the age of 55."

"If we open that door, there is no way we can close it," Mr. Swintek continues.

"Home buyers must sign a statement saying they understand that it is a senior community," Mr. Meade says.

But, even Ms. Condé concedes some real estate agents may be willing to bend the rules in order to close a sale.

"Last year, my husband and I bought a property in Sun City through a licenses agent," she says. "We were never asked to sign any document that outlined age restrictions. We were not provided a copy of the Sun City Home Owners Association documents or a copy of the Recreation Centers of Sun City documents.

"We were never asked to sign anything that required us to conform to certain age restrictions," she continues.

Selling Sun City homes to underage residents is not a new phenomenon, it has occurred since Sun City's infancy.

Sun City pioneers Naomi and Bill Langdon were among the community's first residents in 1960.

Both Langdons were under the age of 50 when they purchased their Sun City residence. "The salesman was in the (military) reserves and he had to leave in a day or two. I think he just wanted to make a sale," Mrs. Langdon recalls.

Mr. Swintek is not alone in fearing the loss of Sun City's age-restricted status.

Several present and past officials of the Sun City HOA, which has staunchly fought to preserve the age overlay, are wary of reducing the minimum age.

"HOA has worked and is still working diligently to preserve the age overlay," said HOA President Ed McCrea. "We want to make sure we keep it."

"The biggest problem with age overlay violations now is Realtors selling to underage people," comments Blaine Donaldson, HOA past president.

"You would end up like Youngtown, losing the overlay, and no one wants that," he says.

Former HOA and RCSC director Gerry Unger is also skeptical of Ms. Condé's proposal.

"Sun City and Sun City West are subject to the sales of dozens of real estate brokers and we have no knowledge of the sales," he says.

"According to federal regulations, 80 percent of the housing units must have a resident 55 or older. Our deed restrictions require 100 percent of the homes have a person 55 or older," Mr. Unger mentions.

"Primary interest is to maintain the absolute security in knowing

that 80 percent of housing units meet age requirements," he notes.

Mr. Unger notes that Sun City Grand has begun accepting residents under the age of 55.

"They can do that because Del Webb is selling the houses and knows when they reach the limit," he observes. "Sun City does not have that control."

John Waldron, Del Webb's regional director of public affairs, confirms that Sun City Grand does sell a limited number of homes to underage residents.

"We limit the number of people under the age of 55 to under 10 percent," he says. "We have been staying below that 10 percent margin. Also, if any of those folks sell their homes they must be sold to someone 55 or older."

Ensuring the resale to someone over the age of 55 would be difficult in Sun City, according to Mr. Swintek.

Mr. Swintek, who served on the HOA board of directors and spearheaded the deed restriction revisions in 1998, is adamantly opposed to lowering the age and possibly jeopardizing the overlay.

Further, he does not see the need to lower the age to attract more home buyers.

"We are increasing homes sales," he says.

"Sales last year were 2,160 not

1,693 as Ms. Condé reported," he says. "Through July of this year, sales have been 1,470, up from 1,355 in the corresponding period last year.

"This year we are about 980 housing units ahead of the five-year average," he adds. "Why do we have to spur homes sales?"

He also disagrees with Ms. Condé's contention that younger homeowners would be more likely to spend money renovating their home.

"Remodeling is happening all over town," he says. "I have several neighbors who have spent substantial money renovating their homes.

"As more people renovate and remodel the average house values will go up over the next 10 years. As you see houses improved, the property values will rise."

Community activist Anne Stewart is also skeptical that reducing the minimum age would prove beneficial for Sun City.

"I think we should remain a retirement community," she says. "Younger people would be coming in just to take advantage of cheaper real estate and would not become involved in the community.

"They would likely be detrimental to the recreation centers. They (younger people) are not ready for Sun City," she continues.

"They should wait until they are ready for their retirement dream to come true before they come here. People should be ready for retirement and should not be working," she adds.

Despite all the expressed skepticism, Ms. Condé is confident the age overlay can be preserved.

"At last year's rate of home sales, it would take more than three years for the senior overlay to be in jeopardy," she says. "At that point in time, the requirement that all homes sold be occupied by someone 55 or over could be put into place until the percentages dropped to a safer level" she says.

"In the communities Joanna has looked at, none of them have come close to the 20 percent level," Mr. Meade comments. "We would start with virtually everyone 55 so it would take years to approach the limit."

While several HOA and RCSC officials gaze at Ms. Condé's proposal with a jaundiced eye, there are some residents who are interested in giving the suggestion further study.

Mrs. Langdon says she would not be opposed to lowering the minimum age.

"It's a good idea," she says. "I would not oppose a neighbor 50 or younger. I just wouldn't want them to have a bunch of kids."

"I think she has an interesting point," says Fran Park, chairman Sun City's 40th Anniversary Committee.

"As long as we can guarantee that 80 percent of the housing units are occupied by residents 55 or older, it might be worth exploring," Mr. Park says.

However, he adds it would be a shame to lose the age restriction. "I would not want to see that happen. I am 100 percent against jeopardizing the age overlay but if there are some things that could be done we might want to look at them," he emphasizes.

"This should stimulate thought among people so they can generate the ideas that can make a significant difference," he observes. "Whether she is on the right track or not, she has raised issues to be dealt with."

"I would say the sun has not set on Sun City," Mr. Park says optimistically.

*(Marketing Sun City will be discussed in the final installment of the series.)*

SEPTEMBER 6-12, 2000

SUN CITIES INDEPENDENT

## Complaints of underage residents arise again in Sun City

By JULI NESSETT  
Independent Newspapers

The specter of underage residents has reared its head once again in Sun City.

Over the last several weeks the *Sun Cities Independent* has received several complaints from concerned citizens regarding a Sun City house where several underage people are living.

According to Bill Krone, Maricopa County code enforcement officer, the house, located at 12429 St. Andrews Drive is currently being occupied by the property owner's underage grandson and possibly one or more of his

friends.

Sun City deed restrictions requires at least one of the residents of each home be at least 55 years of age or older, apparently putting the occupants of the house in non-compliance.

The property owners was to be cited for the violation on Aug. 10, Mr. Krone noted. According to the summons, the property owner was to explain to the hearing officer why she would not evict her grandson and other residents.

The day before she was to be cited, the property owner broke her arm and had to be transported to Boswell Memorial Hospital.

When the summons officer

arrived at the house on Aug. 10, other family members became aware of the summons and the issues pending.

The property owner's son assured Mr. Krone he was going to take matters into his own hands.

Mr. Krone indicated he was told the grandson will be out of the

house and the locks will be changed by Sept. 6.

If the residents do vacate the premises as of this time, county code enforcement officials will drop the matter.

It was indicated to Mr. Krone that the house will probably go up for sale at that time.

# HOA kept busy with age protest

## Caravan rolling to downtown hearing

By DAVID MILLER  
Staff writer

Citizens anxious to know whether a 39-year-old woman and her child will be allowed to live in Sun City, but who don't want to drive to Phoenix for the hearing, can take heart. There's going to be a shuttle.

In fact, there's going to be a caravan, if the Sun City Home Owners Association has anything to do with it.

"It's unbelievable," said HOA Director Jerry Swintek, of the large number of calls he's received protesting the request. "I've never seen anything like this."

The hearing on Wednesday of the Maricopa County Board of Adjustments will determine whether Mary Hutchings and her 7-year-old son may live longer than 90 days in Sun City.

The two have been staying with Hutchings' elderly mother, Minnie, whom the daughter says is in declining health.

If her request proves successful, the three will remain together for at least a year, in the 18000 block of North Cherry Hills Drive East. But scores of residents object to that, and plan to make their feelings known.

Count the Home Owners Association among them.

"We feel the daughter is taking advantage of the mother," said Swintek. "Granted, Mrs. Hutchings is getting up in years, but every one of

us who moved here realized that one day we would not be able to take care of ourselves.

"And it's not fair for a 7-year-old to have to live in Sun City," he said. Age restrictions allow children under 19 to live in the community up to 90 days.

Mary Hutchings could not be reached for comment Friday. Her mother declined to speak about the matter.

Her neighbors are more expressive, however.

Some have gone as far as posting signs and penning angry letters to the Daily News-Sun.

"I am opposed to a grandson of 7 years living in Sun City beyond the 90 days," wrote Joe Zweben. "Do you want children living in Sun City? If so, do nothing. Otherwise, please make yourself known and heard."

Swintek plans to help citizens do just that.

"A lot of people don't want to drive to downtown Phoenix to go to the hearing," he said. "We can act as the coordinator between riders and drivers."

Already, about 30 people have agreed to share rides to the session at 205 W. Jefferson.

HOA also plans to charter a bus.

The hearing is slated for 10 a.m. Wednesday in the Board of Supervisors Auditorium.

Those needing a ride or willing to drive a carpool vehicle should contact HOA at 974-4718.

# Age request withdrawn

## Grandmother will leave Sun City

By DAVID MILLER  
Staff writer

A Sun City woman who hoped to move her daughter and 7-year-old grandson into her home has decided to give up the fight.

Challenged by neighbors, residents and the Sun City Home Owners Association, Minnie Hutchings has decided not to take on county restrictions.

Instead, the 83-year-old may be leaving town.

"I don't want to stay here," she said Monday. "I'm not a fighter. I just live my life the best I can."

Lori Schleier, county planning manager, confirmed that Hutchings' request had been withdrawn. The Sun City woman, who lives in the 18000 block of North Cherry Hills Drive East, was to have addressed the county Board of Adjustment Wednesday morning.

She and her daughter, Mary, 39, were seeking an exemption to restrictions barring children under 19 from living longer than three months in the community.

Hutchings' daughter previously told the Daily News-

Sun that she wanted to move in to help her aging mother. Her 7-year-old son would have joined the two as well.

But the elder woman said that since announcing her plan she's become a target of harassment.

"I get an awful lot of phone calls — prank calls," she said. She also received at least one threatening letter, which she turned over to the Maricopa County Sheriff's Office.

HOA officials, in turn, say dropping the matter is in everyone's best interest. But they were reluctant to call off a caravan headed to the meeting Monday, until they were sure the matter had been shelved.

HOA spokeswoman Ione Boynton said dropping the matter was in Hutchings' best interest — and to the benefit of her grandchild.

That, it seems, is what Hutchings has planned.

She said she has daughters living in Prescott and Wickensburg, and may move in with one of them.

Above all, she wants the furor to die away. "I can't go on like this," she said.

Wednesday, July 15, 1998 Daily News-Sun, Sun City, Ariz.

# Senior zoning

## Sun Cities' status remains safe

By BRUCE ELLISON  
Staff writer

Youngtown's action to rescind its age-restrictive overlay zoning has raised a number of questions from residents of that town — and in the Sun Cities — about whether Sun City and Sun City West have problems with their seniors-only status.

In a word, the answer is No.

But here's a list of questions that have been raised, and the answers, compiled after discussion with a handful of experts:

**Q: Why did Youngtown have to repeal its seniors-only zoning?**

**A:** Because the town could not document that the zoning ordinances had been enacted in accordance with state law.

**Q: So are Sun City or Sun City West in jeopardy?**

**A:** No. The reason is that their senior status was enacted in accordance with state law. In both Sun City and Sun City West, the developer, Del Webb Corp., included deed restrictions in all homes that said they were designed for, intended for and would be used only by residents, one of whom was at least 50 (originally) or 55 (later) years old. The communities were created specifically for seniors, and had policies in effect (the deed restrictions) to keep them from being used by those under 55, and by youngsters.

In Youngtown, there were no such restrictions initially; it was in trying to convert to such a status that Youngtown ran afoul of the state law.

**Q: So is Youngtown still a seniors-only community?**

**A:** Sort of. It still meets one of the crucial federal criteria for becoming seniors-only, and that is that 80 percent or more of the dwelling units have at least one resident age 55 or older.

But because the town's zoning was repealed, it does not meet another criterion: the requirement that "the housing facility or community publishes and adheres to policies and

procedures that demonstrate the intent required (to become a senior community) ..." That's Section 807(b)(2)(c)(ii) of the Housing for Older Persons Act of 1995.

Youngtown, or a new homeowners association there, now needs to set up those "policies and procedures."

**Q: But if only 80 percent of the homes have to have someone 55 or over, can't kids move into the other 20 percent in the Sun Cities?**

**A:** No. That's where the deed restrictions come in, by saying that's not allowed. And that's where the county's age-overlay zoning gives residents an enforcement tool.

**Q: What does that 1995 Housing Act do?**

**A:** The act is permissive as far as a senior community is concerned, not restrictive. It allows communities to designate themselves as seniors-only, and then to violate other sections of the Fair Housing Act that prohibit discrimination. A community that meets those criteria can advertise itself as intended for seniors, and real estate agents and owners can legally decline to rent or sell to others intending to move in who don't meet the criteria for living in a seniors-only community.

**Q: But didn't Youngtown meet those criteria a decade ago, when the federal Justice Department probed it and gave it a clean bill of health?**

**A:** Yes, it met the federal criteria — the 80 percent rule and the "policies and procedures" rule as well as a rule, since repealed, about having significant facilities for seniors — everything from special library books to wheelchair ramps and educational programs.

But what the Justice Department didn't look at was whether Youngtown's age zoning was enacted legally under state law. It apparently just accepted the fact that those "policies and procedures" existed.

The Arizona Attorney General looked at the enactment process, and found it wanting, and so found most of the zoning illegal and void.

**Q: So why do you need age-restrictive zoning?**

► See Sun Cities', A5

OVER

◀ From A1

**A:** Because the federal law is permissive; it only says, "You don't have to let youngsters in." It does not say you have to keep them out — because only 80 percent of the homes have to meet the one resident age 55 or up rule — and it makes no provision for enforcing the seniors-only status.

That's where the deed restrictions come in, as they do in Sun City and Sun City West.

But deed restrictions are private agreements among landowners. To enforce them, somebody, usually a homeowners association, has to go to court in a civil case and ask a judge to enforce the deed restrictions, also known as CC&Rs, or conditions, covenants and restrictions. That's an expensive and often lengthy process.

But with age-overlay zoning, the enforcement

level for the communities to be in jeopardy.

**Q:** So can a Youngtown resident legally refuse to sell to someone with kids who wants to move in?

**A:** Tricky question, this one. The answer is, probably not. While the community probably can still qualify under federal law as a seniors-only town, it doesn't now because it does not have those "policies and procedures" in effect that are part of the qualification process. real estate agents who discriminate face severe penalties; so could home sellers.

**Q:** OK. So if kids move in to Youngtown, where do they go to school? After all, we're not in any school district.

**A:** Under the law, said Sandra Dowling, the county schools chief, all children are entitled to a free public education, whether they live in a school district or not. That education will come from the nearest district, Dowling said: Peoria or Dysart. A Peoria school official told

onus is shifted from individual to government. A person who lives in a home in violation of the zoning can be prosecuted by government — Youngtown, or Maricopa County in the Sun Cities. That's why people prefer an age-overlay zone. It makes enforcement easier.

**Q:** Why all this hoopla about a few under-age residents in Sun City lately?

**A:** That's an effort by residents to enforce their deed restrictions and the county zoning. The county age-overlay zoning ordinance contains a procedure by which some people could qualify for exceptions. People have the right to try to do that at the Board of Adjustment. Others have the right to object; the board decides. Residents need to remember that a few underage residents living in the Sun Cities with legal exceptions won't cause the communities to lose their senior status; the number would have to drop to near the 80 percent

the Daily News-Sun a month ago that Peoria was under no obligation to educate kids who didn't live in the district, but Dowling said, "Yes, until I order them into the district."

Both the Dysart and Peoria unified school districts border Youngtown, so kids could go to either, as Dowling directs. But, she said, the youngsters can't be ordered to a particular school, only into a district.

**Q:** Would that boost school taxes in Youngtown?

**A:** No. Most of the town was removed by ballot from the Peoria district years ago, and it can't be put back into the district without a similar election. So taxes won't change unless residents want to reaffiliate with the Peoria district.

There are about a dozen homes, west of the 115th Avenue alignment, that are physically in the Dysart district, and whose owners pay tax to that district.

JULY 1-7, 1998— SUN CITIES INDEPENDENT

# Protecting Sun City's age restriction laws

## Updating deed restrictions vital to preserving senior-only status

**A** smart man once said, "Experience is a dear teacher." However, my ol' daddy told me, "Watching the accidents of other people is a heck of a lot easier than riding a bicycle in front of an automobile." This is the lesson that I sadly had to learn the hard way.

This is also a lesson the people of Sun City must either learn, too, or reap the harvest of an unfolding history, being led by the Arizona Attorney General's Office.

We in Sun City sit watching the turmoil of a coming destruction of the lifestyle of our good neighbor of the west, Youngtown, and, what are we learning?

Well, we should be learning that the rules that keep our community age restricted cannot be compromised. If we allow a few exceptions, we lose. If we do not use our rights certified by law, those rights will be forfeited.

Presently, we know of underage people who are trying to establish residency in Sun City. Yes, we understand there are circumstances, there are always circumstances, that seem special and specific for individual cases. There are deaths,

**Gerald Unger** of Sun City is a former president of the Recreation Centers of Sun City Inc. Board of Directors.



divorces, financial problems, unexpected pregnancies and unintended consequences in human actions.

Exceptions were made, precedents were set; people didn't know. But we know. We know that if we do not protect the integrity of our age-restricted zoning, we will lose it.

We also know if we do not face up to the fact that some people are violating deed restrictions on property maintenance, weed control, parking restrictions, we are inviting the chaos of noncompliance and the degradation of our retirement

community.

What do we do? At the present time a unified deed restriction proposal is being circulated for approval to all the residents of single-family houses in Sun City. It is the first update of the deeds in 38 years, and can replace 59 different varieties in existence since 1960.

Be sure you support this effort. There is only one way to avoid excessive government control over your life and property and that is to take the responsibility to keep your own rules. I urge everyone to familiarize themselves with the new unified deed restrictions and to approve them. It's up to each of us to take the responsibility to protect Sun City as a retirement community.

Further information about the new deed restrictions can be obtained from the Sun City Home Owners Association. Call 972-5954. Volunteers are needed to assist with the distribution of the new deed restrictions.

May we be able to learn from the sad experiences of others rather than suffer the sad experiences ourselves.

GERALD R. UNGER  
SUN CITY

Tuesday, June 30, 1998 Daily News-Sun, Sun City, Ariz

# Overlay issue

## Sun Citians challenge neighbor's petition

By DAVID MILLER  
Staff writer

This is not about hate, assures Ginee Karr.

Instead, it's about the tenets of a retirement community, set up to serve seniors and keep out the kids, for everyone's sake.

But now, she says, that arrangement is being challenged by a neighbor intent on opening the floodgates.

"It's not that I hate, children," she said Monday. "I just don't think they should start living in Sun City."

To ensure that doesn't happen, Karr is circulating posters concerning the case of Minnie Hutchings, a local woman reportedly petitioning the county to have her 38-year-old daughter and 7-year-old grandson move in with her.

Reached by phone Monday, Hutchings declined to comment. But Karr and other residents of Cherry Hills Drive East are quite vocal with their discontent.

"Do you want children in Sun City?" they ask, on posters going up in the neighborhood. The answer, she says, is obvious.

"This is a retirement community. We are not driving around the corner looking for children."

Another Cherry Hills Drive East resident agrees. "I'm really against it," said Loretta Bush. "I think the child should be in a community with (children of) his own grade level. They should try to relocate."

The home is located in the 118th block of North Cherry Hills Drive East. Signs announcing Hutchings' petition and a hearing date of Aug. 12 reportedly have gone up in the area.

County officials did not immediately return calls seeking comment.

The case comes on the heels of similar controversy in Youngtown. There, the town council is considering whether to throw out its age-restrictive overlay zoning, after the state Attorney General's Office ruled portions of it unconstitutional.

Bush fears a similar occurrence in Sun City, and has written a letter to the county in protest. "I don't want something like that to get started."

In Sun City, at least one resident of a home must be 55 or older. No one under 19 can be a resident for more than 90 days.

# 10-year Sun City resident who's 52 finds age-55 restriction a headache

**QUESTION:** Ten years ago, when I was 42, I moved to Sun City to live with my 72-year-old mother in her condominium. We lived there two years and then moved to a house she inherited two blocks away. We lived there for two more years.

By that time, I had computers set up in the condo, so Mother and I eat or sleep at either place. The house utilities are in my name, while the condo's are in hers.

When I first came to Sun City, the age limit was 50, but that later was changed to 55. Now, a condo neighbor has complained to the homeowners association, and I have been given 10 days to move.

The association sent a letter saying federal law requires at least one person living in a residence to be 55 or older. The letter also said Maricopa County's Senior Citizen Overlay Zoning Ordinance does not allow anyone younger than 19 to be a permanent resident of Sun City and that children may visit for up to 90 days.

Can I be "grandfathered in" because the age limit was 50 when I moved here? Because I need to be with my mother, what percentage of time may I spend in the condo? Can I sleep at the house and spend the days at the condo on my computers or gardening without violating the laws?

**ANSWER:** There should be no reason for you and your mother to be unable to live in her condo, my experts say, as long as you both spend the same amount of time there.

The federal Fair Housing Act prohibits discrimination against families with children, attorney Michael Parham said. Since 1988, when the law was amended, exceptions for retirement communities have been allowed provided they meet certain fair-housing criteria.



**ROSALIE ROBLES CROWE**  
Multihousing Q&A

Parham, legal counsel to the Arizona Mobile Housing Association and a member of the Arizona Multihousing Association government affairs committee, conducts training seminars for both organizations on fair-housing law.

"To qualify as an age-55 community, at least 80 percent of the occupied units must have at least one resident over age 55," Parham said.

Such a community "can, but doesn't have to, require the other members of the household to be over 55, or it can set a lower age for a home's other residents. In addition, the community must have — and enforce — effective age verification procedures and must otherwise demonstrate an intent to be an age-55 community."

Nationwide, Parham said, communities have complied with the law's age-restriction criteria in a variety of ways.

Scottsdale attorney Brian Zemp, a partner in the firm of Zemp, Kapsal & Carpenter, agreed. Zemp's practice focuses on association law, and he has represented and handled the formation of several age-restricted communities in the Valley.

Recent amendments to the Fair Housing Act make it easier for communities to qualify as "housing for older persons" and from having to allow anyone 18 or under to live in the community," he said. But in many cases, that exemption is avail-

able only to communities that took steps to qualify or requalify as 55-or-older housing after Dec. 28, 1995.

The fact that your association is also subject to the county's Senior Citizen Overlay Zoning restrictions simply means each dwelling unit must be occupied by at least one person who is at least 55 or older, and no one 18 or younger may live there for more than 90 days, Zemp said. Additionally, senior citizen overlay restrictions require that 80 percent of the units be occupied by at least one person age 55 or older.

When seeking an injunction against an underage resident, Zemp said, the threshold test in enforcement action often is the question of what damage is being done to the community.

Because neither the "housing for older persons" nor the senior citizen overlay requires 100 percent of the units to be occupied by someone over 55 or that everyone living in the units be 55 or older, "there is some question as to how the association has been damaged by the occupancy of someone under 55 and over 18," Zemp said. Perhaps the 80 percent qualifying threshold is in jeopardy, he said.

My advice to you is to present this information to the association in a non-confrontational way. If the association persists in insisting that you move, check your condo association's documents to see if there are other restrictions beyond the minimum requirements of fair-housing laws. If there are, you should consider consulting a lawyer knowledgeable in association and fair-housing law.

If you have a multihousing question, write to Rosalie Robles Crowe at AZ Home, The Arizona Republic, P.O. Box 2245 NF-17, Phoenix, AZ 85002. Or you can reach her at RRCrowe@aol.com via e-mail. Questions are answered as space permits.



# Family leaves Sun City at church's urging

By RUTHANN HOGUE 4-22-97  
Staff writer

A church that helped a pregnant woman and her son flee an abusive home by moving them into Sun City 15 months ago is now asking them to leave.

Last week, following media attention, Sun City Christian Church leaders told Cathy Hosfield and her two small children that it's time to move out. They have been living in Hosfield's mother's rented duplex since January 1996.

"People have complained, and we wanted the problem solved," said the Rev. Donald Farris, senior pastor at Sun City Christian Church.

"Sun City is not a town for children. Children don't have any privileges here, and people with children need to be outside Sun City. Sun City is a retirement community, and it's for retirees."

About 50 people signed a petition protesting the presence of Hosfield

and her children. The petition was in response to Hosfield's application for a temporary permit to legally live in Sun City.

Today, Hosfield will leave the home of the Rev. Ruth Miskell, an associate minister with Sun City Christian Church. She and her two children, Daniel, 6, and Sara, 8 months, will move into an apartment in a nearby community. Two months' rent was paid for by donations from church members.

The move comes eight weeks before Hosfield's scheduled plans to move out of state to attend school. It is also one month ahead of a hearing scheduled for May 21 by the Maricopa County Planning and Zoning Committee. The Board of Adjustment meeting would have decided whether to grant Hosfield's request for a permit to stay with Miskell until June 15.

Sun City, which is unincorporated, falls under the jurisdiction of Maricopa County's Senior Citizen Over-

lay Zoning District. No one under the age of 55 may live in Sun City for more than 90 days without a permit issued by the county. Once the \$100 fee required to request a variance has been posted, the petitioner cannot be legally forced to leave until their case is heard.

But that didn't stop Sun City Christian Church officials from asking the Hosfield family to leave immediately.

"We still feel, even though they followed all the guidelines and are within their legal rights to follow as they have done, the pastor's position is that Sun City is for retirees, and we should honor that," Farris said, referring to himself in third person.

A fund was set up last week by the church to help Hosfield with her plans to go back to school and to help her get back on her feet. It was tapped to rent an apartment in a community where children are welcome.

"We called her and told her it was

time for her to find a place, and that we would cover the expenses," Farris said.

If Hosfield hadn't chosen to take the pastor up on his offer, what then?

"We would not have been happy," Farris said.

Instead, Hosfield is the one who's left unhappy.

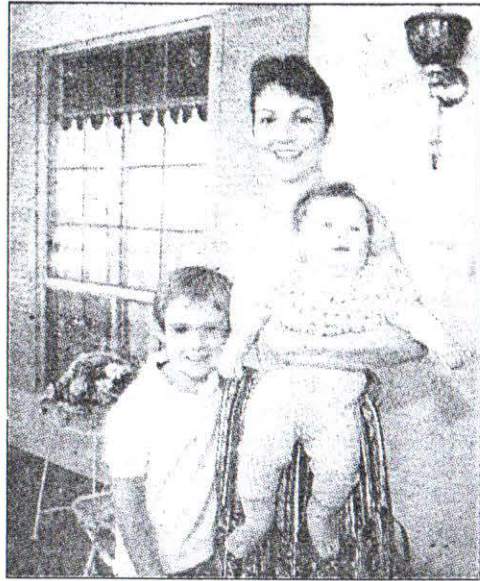
"All I wanted to do was to stay here until the end of the school year," Hosfield said.

And why, after 15 months of tolerance, is Sun City Christian asking Hosfield to leave Sun City eight weeks before her plans to move?

"Why not wait two more years or three more years," Farris said. "No, I think it's time for her to move out."

Hosfield has been the target of media attention since her story was published April 9 in the Daily News-Sun. Being the center of attention hasn't been easy for the church or for the family.

► See Members pitch, A5



Mollie J. Hoppes/Daily News-Sun

Cathy Hosfield, her son, Daniel, 6, and daughter, Sara, 8 months, hoped to stay in Sun City until the end of the school year.

## ■ From A1

A television reporter has knocked on Hosfield's door, a radio talk show producer has called several times to invite her to be a guest and at least one other print reporter has tried to contact her.

One newspaper report, based mostly on information obtained by a county official, revealed where the woman who said she was abused planned to relocate to attend school. Hosfield had not told her husband where she was going. In January, he reportedly followed his wife to the Valley from Akron, Ohio, in hopes of talking her into reconciling.

"I just don't want him to follow me where he could create problems," Hosfield said. "I would rather that not have been made public. Just the fact that I'm leaving is fine."

Because of Miskell's position with Sun City Christian Church and her post as president of the Sun City Area Ministerial Association, the media exposure hasn't been good for the church, either.

"The church was anxious to solve the problem," Farris said. "The pastor wanted it solved."

Steven White, a senior planner with Maricopa County, said that once Hos-

field leaves Sun City there will be little chance of her permit being accepted, in the event that she wants to come back.

"Once she packs up her bags and moves out, it's a done deal," White said. "We'd have to file a new case."

Chances are, White said, that Hosfield would have been allowed to stay until June 15 after the Board of Adjustment hearing.

"She just wanted to have some relief and not to have to go to court until that time," White said.

The county does not have any other pending temporary use permits for underage

violations at this time. Two others were denied earlier this year to adults who were under 55 years of age. The decisions are based, in part, on hardship, and on how the neighbors feel about a particular situation.

"It's too bad for the church, realizing that it was all going to work itself out anyway," White said. "It was a done deal. There didn't seem to be much argument either way."

Donations to help Hosfield and her children with living expenses and enrolling in college may be sent to her in care of Sun City Christian Church, P.O. Box 1805, Sun City, Ariz. 85372.

# Neighbors petition for kids' removal

By RUTHANN HOGUE  
Staff writer

Nearly 50 Sun City residents signed a petition protesting the presence of two small children who live with their mother and grandmother in a rental duplex in violation of the Senior Citizen Overlay Zoning District.

"We and several neighbors here on this block got together and we decided to put this

thing together," said Amelia Holtman of the 10200 block of West Bolivar Drive in Sun City.

Kenneth and Amelia Holtman live five doors down from the Rev. Ruth Miskell. Miskell's rented home in Phase II of Sun City provides a place of refuge for her 36-year-old daughter, Cathy Hofffield, who said she fled an abusive home in Akron, Ohio, in January of 1996 with her son, Daniel. Since then, she gave birth to

her daughter, Sara, now 8 months old.

Hofffield claims she is experiencing hardship, and that she and her children have no place to go. She said she is looking for a way out of her predicament through public housing programs until she can get a job or register for school. On Thursday, Maricopa County placed her in a pool of people waiting for assistance. There is nothing she can do, she said, until her

number comes up.

The Holtmans won't hear of it.

"We make the 90-day exception," Amelia Holtman said. "Now, in three months you ought to be able to find a place."

Deed restrictions and Maricopa County ordinances in the unincorporated Sun Cities allow residents to house underage guests for up to 90 days. Those residents who have guests for extended visits

may pay a \$100 application fee for a variance through the county's Planning and Zoning Committee's Board of Adjustment.

Miskell and Hofffield applied for a variance last month. Their case will be heard by the Board of Adjustment on May 21.

But neighbors, 25 from West Bolivar Drive, 13 from West Forrester Drive and 10 from North 103rd Avenue, believe that the action is too little, too

late. Each of them signed a petition to force the family out of Sun City.

"This is very serious because it is a gross violation of the Federal Fair Housing Amendment of 1988," Amelia Holtman said. "It jeopardizes the value of our house — everybody's house — because we are here with the idea that we have come to retire, and to participate with other older

► See Uphold law, A5

## ■ From A1

people in our activities that are offered in this community."

The Holtmans moved to Arizona 14 years ago from Winemack, Ind. They raised a son and have two grandchildren. Kenneth Holtman retired from his post as vice president of a small steel company at the age of 70.

Everyone in her family, including both grandchildren, are college educated, Amelia Holtman stressed.

"So we're not a bunch of dummies," she said. "So if anybody is playing us for that, they better start reading the books. That's the nice part of being here: Everybody is the same, whether you are president of a railroad or somebody who was a top-notch employee. We are all here and we are all equal."

Not everyone who signed the petition was as willing to speak out as the Holtmans.

"I just don't feel that I want to get involved with this," said Arlene Gordon of 10200 block of West Bolivar Drive. "It shouldn't have gone to the papers. I think it should have been resolved peacefully. I don't think this is good for Sun City."

Hofffield understands that she and her children are causing her mother and the owner of the home she rents to violate the age restriction. She doesn't understand why residents are so adamant about enforcing the rules.

"I think they should kind of mind their own business," Hofffield said last week. "If I'm here to help my mother, which I am in a way, why should my mother have to pay for somebody to come in and help her. She's helping me, and I'm helping her."

Hofffield takes care of yard work and house work for her 70-year-old mother. She helps with the cooking and shopping.

And she wonders what others would do in the same situation.

"You know they would fight tooth and nail to get something like this for their family," Hofffield said this morning, pausing before adding "or maybe they wouldn't."

Charles Cunningham said he wouldn't.

Cunningham moved to Sun City five years ago. He, too, lives in the 10200 block of West Bolivar Drive.

Cunningham has seen Daniel outside at play. He said that Daniel and Sara don't create a disturbance in the neighborhood, but rules are rules.

"If this is allowed to continue, why then it will destroy the age restriction area. ... Most people out here come to avoid, you know, the children and family. They come out here for retirement, and peace and quiet. In other words, birds of a feather flock together."

Cunningham, too, believes that there is no room for exceptions, regardless of the situation.

"I'm a Valley man, in the Valley for 40 years," Cunningham said. "I have a big family with 10 grandchildren and three great-grandchildren right here in the Valley. I could turn this neighborhood upside down if I wanted to move them all in my house."

Even if he walked in Miskell's shoes, with a child in a hardship situation, Cunningham said he would have reacted differently.

"I'd move," he said. "I'd take them in. I'd take care of them. But I wouldn't take care of them at the expense of people who invested in this community. I would take care of my family, but I wouldn't do it here."

Miskell's positions as assistant minister at Sun City Christian Church and presi-

dent of the Sun Cities Ministerial Association makes matters worse, Cunningham said.

"It's just a situation that's bad, and the lady, if she's a minister and stands for everything good that a minister's supposed to be, she should have already been out of here. She should have made other arrangements," he said.

Neighbors who signed the petition said they believe they are acting in the children's best interest, as well as their own.

"You know, it is really sad to see that kid here all by himself, not a living soul for that child to talk to or play with or do anything with," Amelia Holtman said. "It's a gross miscarriage of justice in trying to raise a child. My goodness, there must be thousands and thousands of houses available for people like that, with people in a neighborhood with children."

# + Couple ordered to leave Sun City

## Temporary use permit denied

By Lori Baker  
Staff writer

SUN CITY — Larry and Carol McCullough have been given nine months to leave their Sun City condominium.

The county Board of Adjustment on March 9 rejected the couple's request for a temporary use permit to remain in their condominium on Silverbell Drive for up to two years.

The two do not meet a senior zoning ordinance requirement that at least one member of the household be 55 years old or older.

Their only option is to have someone who is at least 55 years old move in with them.

But the McCulloughs don't plan to do that.

"We think this is discrimination, but we can't fight this because we can't afford an attorney," said Larry McCullough, 32.

He said he believes that his 51-year-old wife has "grandfather rights" because she moved to Sun City five years ago to take

care of her dying mother, Stella Dombrowski.

After her mother's death in 1992, Carol McCullough inherited the residence. The couple continued to live there.

But in December, neighbors complained to county officials that the McCulloughs violated Sun City's senior zoning.

"There was a number of people in opposition to the McCulloughs' application for a temporary use permit," county principal planner Bob Brittain said.

Petitions against the McCulloughs' request were signed by neighbors and other Sun City residents.

The Sun City Home Owners Association board also voiced its opposition to allowing an underage couple in Sun City.

"If we don't take a stand now, someone else would do it and someone else," homeowners association President Lynn Arend said.

To maintain its senior restrictions, at least 80 percent of Sun City households must meet the age requirement.

"We were going to rent out the house, but we thought we've had this much trouble, so we don't want to be involved with people like that," Larry McCullough said.

# Pair ruled too young for home

By DAN BURNETTE  
Daily News-Sun staff

PHOENIX — The Maricopa County Board of Adjustment has denied an underage Sun City couple permission to continue to live in their condominium, but they will have nine months to find another place to live.

Carol and Larry McCullough, ages 51 and 32, said following the unanimous vote of the board Wednesday that they believe Carol has a right to continue to occupy the condominium on Silverbell Drive under a "grandfathering" provision of the federal Fair Housing Law, and, because Carol is disabled, under the Americans With Disabilities Act.

The couple said they don't have the money to file a lawsuit in Superior Court to test their opinions. An appeal would have to be filed within 30 days of the board's decision Wednesday.

Carol McCullough had moved into the community about eight years ago to take care of her ailing mother, Stella Dombrowski, and because her mother met the age restriction, Carol was legitimately a resident of the community.

At least one resident of a household under the county's senior overlay zoning ordinance must be 55 or older, and all permanent residents must be 18 or older.

Carol's mother died two years ago, but Carol continued to live in the condominium, which is being held in trust.

"We've been good tenants and we don't have children," Larry McCullough told the board. But the board agreed with Bob Brittain, principal planner for the county Planning and Development Department, that the issue involved whether the McCulloughs meet the age requirement, not whether they are good or bad neighbors.

The staff recommended denying a temporary use permit that would have allowed the McCulloughs to live in Sun City for a year, and to seek successive extensions of that permit.

Brittain said the county zoning ordinance for senior-only communities was amended last month to allow underage spouses to continue living in the community after the death of a spouse who had met the age requirement, but the ordinance makes no provision for children or any other relatives.

Brittain also disagreed with the McCulloughs' contention that Carol is exempt from the zoning ordinance because of the Americans With Disabilities Act, which prohibits discrimination against people with handicaps and disabilities and requires that accommodations be made for those protected under the law.

"I know of no senior-citizen provision in the ADA," Brittain said.

# HOA documents Sun City's status for overlay

By DAN BURNETTE  
Daily News-Sun staff

SUN CITY — The Sun City Home Owners Association has filed a statement verifying its status as an age-restricted retirement community with the Maricopa County Department of Planning and Development.

Retirement communities in unincorporated areas of the county are now required to file such statements annually with the county under procedures adopted by the county Board of Supervisors earlier this month. The first of the annual statements is due no later than Aug. 6.

The verification form, drafted by the Department of Planning and Development, assures the county that at least 80 percent of the residents of a retirement community are 55 years old or older and that the community has a number of "significant facilities" as required

under the federal Fair Housing Law of 1988.

The federal law generally prohibits housing discrimination against families, but makes an exception for communities that cater to retirees. The law, nonetheless, does not spell out what constitutes "significant facilities," so the new verification procedure created by the county is not a legal certification, said James Minter, a deputy county attorney who has advised the board of supervisors on the federal Fair Housing Law.

The procedures merely create a consistent framework for the county to decide whether to pursue violations of community age restrictions under the county senior overlay zoning ordinance, Minter said. Maricopa is the only county in Arizona to codify age restrictions.

Glenn Sanberg, HOA president, said his or-

ganization has completed the verification statement with figures on the community's population supplied by the Recreation Centers of Sun City. All residents of the community are required to pay an annual assessment for the operation of the recreation centers and provide the centers with some personal information.

"We always know about the ones who have been here awhile, since they're not getting any younger," Sanberg said today. "It's the new ones (residents) coming in that we have to keep track of."

As of February 1993, 99 percent of the residences in Sun City have at least one member of the household who is 55 or older, said Ted Hack, chairman of the HOA's Land Use and Planning Committee.

The HOA also supplied information on facilities in the community of some 43,000 residents, including the number and location of recreation centers and their activities, senior centers, nursing homes, hospitals, ambulance services, eye clinics, dentist offices and other services.

Some incorporated communities, such as Youngtown, have established their own age overlay zoning ordinances to enforce age restrictions, while others leave age enforcement up to the individual communities.

The Property Owners and Residents Association and the recreation centers in Sun City West are working together to complete the filing on behalf of that unincorporated retirement community, said Dick Egan, a PORA official.

# It's official: Sun City for seniors

## Certified by county to meet overlay zoning requirements

By Lori Baker  
Staff writer

SUN CITY — It's official.

Sun City has been certified by the county as meeting requirements for a senior-citizen overlay zoning community.

Although the area has been known as a retirement community for 32 years, a new county requirement put Sun City's age-restricted status in question.

The Maricopa County Board of Supervisors approved rules June 7 for county planners to use in judging whether communities may bar children under exemptions allowed by the federal Fair Housing Act of 1988.

The act prohibits housing dis-

crimination by a community against children unless certain requirements are met.

Homeowners groups in six unincorporated retirement communities with so-called county senior citizen overlay zoning must complete the county's questionnaire by Aug. 7.

Failure to meet the deadline would result in the county stopping the enforcement of existing age restrictions.

The Sun City Home Owners Association sent its material to the county earlier this month. The county certificate arrived on Thursday.

About 99 percent of the households in Sun City have at least one resident who is 55 years old or older.

Sun City's verification statement to the county included documentation of recreational facilities, social activities/recreation clubs, emergency and preventive health care programs, and health care facilities.

Daily News-Sun, Sun City, Ariz. Saturday, Nov. 17, 1990 For the record A5

# Age tempers adults-only convictions

By CANDACE S. HUGHES  
Daily News-Sun staff

SUN CITY — Attitudes about age-restricted housing may differ depending on how old you are.

Many Youngtown and Sun City residents were attracted to the area because they wanted to be with others their own age, while a number of families moved to Youngtown in the 1970s and 1980s to find affordable housing.

Youngtown and Sun City have age restrictions requiring at least one person 55 years of age or older in each household. The rules prohibit children younger than 18 from staying longer than three months.

Doris Offermann, a Sun City resident for 20 years, feels Sun City is everything she had hoped for when she moved from White Plains, N.Y.

Offermann first came to Arizona to spend Christmas at



Camelback Inn in Paradise Valley. Her trip to Sun City on a rainy day sold her on moving to the retirement community.

The friend who encouraged her to visit Sun City also has moved to the retirement community, and Offermann is delighted with the friendly residents and the numerous activities.

She also is glad that children only visit for short periods.

"The age restrictions were part of what appealed to me," Offermann said. "When people get older, they still like chil-

See Age, A5

OVER

# Age limits appeal to many retirees

—From A1

dren, but they can't stand having them around 24 hours a day."

Before moving to Sun City, Offermann lived next to a house where children were allowed to run and yell outside at 6 a.m. She said that while she likes children, she feels children would be more comfortable in communities meant for families.

Doris Brown, who moved to Youngtown from Peoria four years ago, dislikes the attitudes of some older people toward her sons, ages 18 and 15. Brown, who is 34, cleans houses in Sun City, and her husband also is employed locally.

"I heard that some elderly people were unhappy that the Youngtown Police Department had a Halloween party for children," Brown said. "I had to shoot off a letter about that."

The Browns moved to Youngtown to live near her brother and sister-in-law, who also are in their 30s, Doris Brown said. Now that the family would like to move, the age restrictions and the poor economy are keeping them from selling their house, she said.

"We feel stuck here," she said. "We heard rumors about age restrictions when we moved here, but we never thought they were serious about it."

"It's clear the hatred is there. I should have kept a list of all the hurtful comments," Brown said. She said a comment at a Youngtown Town Council meeting that it was about time to get young people out of the town equated youth with the plague.

"God, I don't know how many times the police have been called just because kids live here," Brown said.

She said she has taken extra precautions to ensure that her boys are well behaved. They must keep music low and they are not allowed to go to Maricopa Lake or the park after dark.

A 94-year-old Youngtown resident said that the town was created for senior citizens and that children should live where there are more things for them to do.

Mynne Jarman, an Arizona native who moved to Youngtown in 1964 from San Francisco, said that she bought a condominium in the town in 1963 after visiting the town with friends.

"I had a real good time when I first moved here. I joined all the clubs, did some volunteer work for the town and served as an officer in various clubs," Jarman said.

"It was my understanding when I moved here that it was a retirement community, but people began selling their homes to anybody with children until the civic association took over and now we have the 55 restriction," she said.

The Youngtown Civic Association began a drive in 1984 to get an ordinance enacted that would put much of the town under age restrictions.

"I like the idea that there is a place for people our age and that there are no children.

There's nothing here for kids so they're just kind of in the way. They have no place to play. There are no sidewalks or anything for kids," she said.

Roxanne Minger, 24, and her husband, Vincent, 27, lived in Youngtown until a month ago. They moved because they wanted to be in the country and because their discrimination complaint against the town was dismissed, Roxanne Minger said.

The Mingers have a 1½-week-old son and a 2-year-old daughter and now live in Waddell.

They rented a Youngtown house from another young couple out of the country and said they were unaware of the age restrictions when they moved in. While neighbors were not exactly friendly, Minger said she got along with them.

The only harrassment she said the couple suffered was a call to the police department complaining that they were not following the town's ordinance on times for watering yards.

The Mingers, along with six other couples, filed complaints with the U.S. Department of Housing and Urban Development. The complaints were transferred to the U.S. Department of Justice, where they were dismissed in September.

Inexpensive rent, as well as a brother and sister-in-law in Youngtown, also drew the Mingers to the community. Her in-laws, the Hagelburgers, also had a discrimination complaint that was dismissed, and they have moved.



DAILY NEWS SUN SUN CITY A2  
FRIDAY NOV. 16, 1990 A1

# Local Realtors face problem of age limits

*Fifth in a series*

By CANDACE S. HUGHES  
Daily News-Sun staff

While a few real estate agents have been battered by some Northwest Valley residents for selling homes to young families, the agents argue that they must follow non-discrimination rules as well as age restrictions.

Agents must comply with laws forbidding discrimination on the basis of race, age, religion and national origin, said George Watrous, president of the Sun City Area Board of Realtors.

Laws also forbid discrimination against families with children, unless a community can provide significant facilities for the elderly and 80 percent of the community's houses have at least one person 55 years of age or older.

"We're not enforcers of the age restrictions," Watrous said. "It's obvious in the case of Youngtown that HUD has determined that they are in compliance and can be exempted under the 1988 amendments to the federal Fair Housing Law," Watrous said.

Youngtown has received notice from the U.S. Department of Justice that five complaints of housing discrimination originally filed with Housing and Urban Development have been dismissed.

Under the amendments, a retirement community may have age restrictions that require at



least one person 55 years of age or older in each household and no children may live in the community longer than three months. Youngtown, Sun City and Sun City West have these restrictions.

While other communities and developments in the area have age restrictions, Youngtown has particularly been a problem because it had no senior-citizen overlay zoning until 1986, Watrous said.

"A development must be conceived, developed and marketed as a retirement community," Watrous said.

Whether it's Sun City, Youngtown or Westbrook Village, Watrous said real estate agents operate the same.

"We make the potential buyer aware of age restrictions and there is a standard clause in the purchase contract which specifies the regulations," he said.

Real estate agents are answerable to the Arizona Department of Real Estate if they refuse to show property to a particular age group, Watrous

See Realtors, A5

# Realtors plagued by limits

—From A1  
said.

"It is the duty of the real estate agent to disclose the age restrictions, but not our responsibility to enforce them. It's up to the city or the county to do that," said Nancy Gray, executive vice president of the Sun City Area Board of Realtors.

"A lot of residents don't understand that we must sell to anyone legally able to purchase property. The restrictions are not on ownership, but on occupancy. There is a vast difference between the two," Gray said.

Real estate agents could place themselves in a position to be sued if they refuse to sell to someone based on the factors of age, children, race, religion or national origin, Watrous said.

"We can make every effort

possible, but if they choose to violate the age restrictions, there is nothing we can do," he said.

"The problem in Youngtown is that they operated on deed restrictions in the past and it was a patchwork quilt of areas that were and were not under the zoning," Watrous said.

"Golden credit and green money — those are the only two colors that Realtors can see," Watrous said. "We place ourselves in a probable liable position if we take on the enforcement role. Our role is to educate ourselves and to educate the client," he said.

In controversial situations, real estate agents should remain positive about a community, but also should feel free to present a positive solution to problems, Watrous said.

"It's not our job to be negative. It's our job to be honest and accurate," he said.

When neighbors complain about an unattractive home which has been placed on the market, the real estate agent can ask the owner to have the grass mowed or mention other work which needs to be done to help sell the house, Watrous said.

Some Youngtown residents have complained about real estate agents who they believe have sold houses to families knowing that they planned to occupy the houses.

Watrous said real estate agents cannot be held responsible for owners who choose to move into a home after they have been notified of the age restrictions.

In Youngtown, a homeowner

or renter found guilty of violating the restrictions may face fines of \$100 daily and a possible jail sentence, depending on the decision of the Youngtown municipal judge.

While the need for low and moderate-income housing persists for young families, Youngtown's senior citizens feel the ordinances should be enforced. Youngtown has maintained that it offers housing for senior citizens who might not be able to afford housing elsewhere in the Valley.

However, as long as Youngtown houses are available for as low as \$28,000 and monthly payments could be around \$270, families still may attempt to purchase these as the only homes they can afford.

**Next: Everyone is feeling the squeeze.**

VF -

# Exemptions protect retirement communities

Daily News-Sun, Sun City, Ariz. Tuesday, Nov. 13, 1990 For the record **A5**

## Second in a series

By CANDACE S. HUGHES

Daily News-Sun staff

Golf courses, condominiums and other popular amenities are not enough to qualify a development as a retirement community.

If the community provides significant facilities for the elderly, it may be exempt from housing laws prohibiting discrimination against families with children under 1988 amendments to the federal Fair Housing Act.

"It can't just be a condo



community around a golf course," said Don Redfoot, a lobbyist for the American Association of Retired Persons. AARP's first chapter was established 30 years ago in Youngtown, which bills itself as

America's first retirement community.

Redfoot assisted in writing the amendments to the federal Fair Housing law and is monitoring the success of the exemptions to determine if any modifications are needed.

To be considered as an adult-only community, the development must:

- provide housing under a federal or state program designed to house elderly people.
- offer housing intended for and occupied exclusively by people age 62 or older.

• provide housing intended for residents age 55 and older that meets these requirements: a) 80 percent of the houses are occupied by at least one person 55 or older. b) have significant facilities and services specifically designed to meet the physical or social needs of older persons.

In Sun City, Sun City West and Youngtown, the ordinances follow the 55 and older regulation, but other developments enforce the first regulation which requires all residents to be 62 or older.

Residents of communities for the elderly have complained that it is unclear whether all or some of these regulations must be followed. At least one lawsuit has been filed to determine how the rules should be interpreted.

HUD has issued no regulations for cities, towns or homeowners' associations to follow, making the situation difficult for senior citizens to sort out.

AARP and other organizations have received complaints about the ambiguity of the regulations and they are monitoring enforcement of the amendments.

"While the 1988 amendments basically protect families with children, we wanted to ensure housing for older people. What we ended up with is a compromise of ourselves, HUD, children and family advocates and real-estate and development interests," Redfoot said.

"We thought it was a reasonable compromise at the time," he said. "What's going on right now is seeing what real-life problems are emerging, if any areas need changes. We are go-

See Amendments, A5

OVER

# Amendments ensure elderly housing

—From A1  
ing through a transition now where the edges are being defined.

"There have been some complaints from retirement communities about the language and we are gathering information versus rumored problems or misinterpretations," he said.

Legislative changes are unlikely during this session of Congress, but the issue is likely to come up next session, Redfoot said.

A list qualifying services as being elderly services was not included in the law so communities would not be required to provide services they couldn't

afford, he said.

Some community leaders argue that they may be forced to drop age restrictions because they cannot afford to defend themselves when young families contest age restrictions.

This side effect of the regulations seems to have been unanticipated, and it is worrying communities where senior citizens thought they had purchased a retirement lifestyle.

Resale of houses in retirement communities has not been a problem, said Don Dyekman, president-elect of the Community Associations Institute.

There has been enough interest in retirement communities

from local and national companies that the developments are likely to continue despite the confusion over age restrictions.

Research showing that most retirees prefer to stay within 200 miles of their longtime homes indicates that the market for retirement communities still is largely untapped, a Del Webb executive said.

"Most who retire, or about 80 percent, indicate that they prefer to retire within 200 miles of their longtime home," said Ken Plonski, director of public and community relations for Del Webb Corp. Webb's retirement community subsidiary, Del

Webb Communities Inc., developed Sun City and Sun City West in the Northwest Valley and more recently built Sun City Vistoso near Tucson and Sun City Summerlin in Las Vegas.

"That being the case, we're tapping only a small part of the market. If we make products more available in terms of geographic locations, the retirees or pre-retirees would take advantage of them," he said.

**Next: A federal lawsuit filed by Seniors Civil Liberties Association challenges the 1988 amendments to the federal Fair Housing Act.**

Daily News-Sun, Sun City, Ariz. Monday, Nov. 12, 1990 For the record A5-1

# Youngtown paved way with restrictions on age

*First in a series*

By CANDACE S. HUGHES  
Daily News-Sun staff

Starting in 1954 with America's first retirement community — Youngtown — the Northwest Valley has offered a variety of housing with restrictions on age, including some provisions that exclude children.

Youngtown's concept was formed by developer Ben Schleifer, who moved to Arizona from New York in 1947. During a trip East a friend complained of confinement in a nursing home. An idea was born.

Schleifer formed the Youngtown Development Co. in 1954, and by the fall of 1955, 125 houses had been built. National advertising billed Youngtown as America's first retirement community.

The age requirement was 65 for all occupants of the first



houses sold from 1954 to 1956, said Calvin Brice, the town's attorney.

An episode of the Gary Moore Show in the late 1950s featured a number of Youngtown couples. They said they were interested enough in a retirement community that they rented nearby houses until their spouse was 65.

The show captured the retirement dream.

Brice, whose father did business with some of the founders

of Youngtown, said that the town was clearly a retirement community aimed at the Social Security set.

Deed restrictions on early houses permitted only senior citizens. But the deed restrictions were dropped as the properties changed hands through the years and some young families began to buy the houses.

Homeowners also found that for deed restrictions to be enforced, a neighbor had to sue the alleged offending property owner, Brice said.

The expense of filing a private lawsuit kept deed restrictions from being enforced, Brice said.

"Youngtown was a retirement community from the very beginning, but there was an influx of families and children when housing prices went so high and the prices of the smaller homes

See Age, A5

OVER

# Age limits arose in Sun Cities

—From A1

in Youngtown made the town more attractive," Brice said.

In January 1986, the Youngtown Town Council passed an ordinance requiring at least one person 50 years of age or older in each household. No children could stay in Youngtown longer than three months.

The age limit was raised to 55 in July 1989 to conform with the 1988 amendments to the federal Fair Housing Act. Individual properties have been added to the ordinance since 1986 as districts of property owners requested that they be included in the age-restrictive zoning, said Pat Druehl, Youngtown town-code coordinator.

Youngtown has used the argument that it provides housing for low- and moderate-income

seniors to help win a recent decision from the Department of Justice that it can enforce its 1989 age ordinance, which requires one resident of each house to be 55 or older.

In Sun City, founded in 1960 by Del E. Webb, properties were sold exclusively as houses with age restrictions, said Ken Plonski, director of public and community relations for Del Webb Corp., parent company of the Sun Cities' developer, Del Webb Communities Inc.

Since Maricopa County approved age restrictions in Sun City on June 18, 1984, enforcement of age restrictions has been up to the county planning and zoning department, said Bob Brittain, principal planner for zoning.

Sun City West was approved for the age 50 restriction on

April 24, 1984.

The county increased the restriction for Sun City and Sun City West to age 55 on Aug. 10, 1989. The change was not enforced, however, until community organizations verified March 24, 1990, that at least 80 percent of the houses in Sun City had at least one person age 55 or older, Brittain said.

Age restrictions on other area communities:

- Westbrook Village, 19281 N. Westbrook Parkway, Peoria, age 55 for 80 percent of the houses, age 40 for the remainder;
- Happy Trails RV Resort, 17200 W. Bell Road, Surprise, 55;
- Desert Amethyst, 18170 N. 91st Ave., Peoria, 62;
- Forum at Desert Harbor, 13840 N. Desert Harbor Drive,

Peoria, 55;

- Camelot Gardens, 11295 N. 99th Ave., Peoria, 62;
  - Sierra Winds, 17300 N. 88th Ave., Peoria, 62;
  - Sun Grove Resort Village, 10134 W. Mohawk Lane, Peoria, 55;
  - Waymark Gardens, 5325 W. Butler Drive, Glendale, 62;
  - Radnor Sun Village, 17300 N. Sun Village Parkway, Surprise, 55;
  - Waymark Gardens, 5325 W. Butler Drive, Glendale, 62;
  - Thunderbird Gardens, 5401 W. Daily St., Glendale, 62;
  - Plaza del Rio, 9401 W. Thunderbird Road, Peoria, 65.
- Next: A look at how the 1988 amendments to the federal Fair Housing Act were written and how they may be changed to ensure that their original intent is met.*

# Sun City is old enough

By JACQUE PAPPAS  
Daily News-Sun staff

SUN CITY — Although the community's minimum age for residency was increased from 50 to 55 last year, Sun City has not yet complied with federal fair housing regulations.

But a stamp of approval may be on its way soon after Maricopa County officials review documentation showing that Sun City can legally prohibit children.

Members of a Senior Overlay Subcommittee on Thursday submitted an array of information — from chartered club listings to resident age data — to show that Sun City meets Maricopa County's revised senior overlay zoning ordinance.

The Maricopa County Board

of Supervisors in July 1989 approved changing the zoning ordinance to comply with a landmark housing law prohibiting most communities from banning children. The federal law went into effect March 12, 1989.

But the county required areas affected by the change to prove they comply with the federal law before the attorney's office enforces the senior citizen zoning.

The county requires evidence proving that 80 percent of the homes are occupied by at least one person age 55 or older. In addition, the area must be designed with facilities and services that meet the needs of senior citizens and the community must adopt written procedures to remain under com-

pliance.

It took members of the subcommittee nearly nine months to compile the data necessary to show the county that Sun City is in compliance, said Frederick Hardy, president of the Sun City Home Owners Association.

The subcommittee was organized by the homeowners group and local organizations such as the Recreation Centers of Sun City.

"Each individual community must give the county sufficient background information to show that they comply. In Sun City, we are nearly in 100 percent compliance with the age regulations," Hardy said. "The 20 percent discrepancy was allowed for situations when a couple, for example, is raising an orphan

child with special dispensation."

Since May 1, 1989, questionnaires asking birth dates of household members in Sun City were mailed to 19,796 recreation center members, said subcommittee Chairman Ted Hoyt.

About 58 percent of the members completed the questionnaires and because many properties are deeded to multiple owners, the returns actually include 6,762 properties.

Of the 6,762 households, more than 99 percent were occupied by a person 55 years or older, the data shows.

"The information was collected monthly and each month the percentage was just about the same so we were quite confident that the next six months See Age, A4

**A4 Community** Friday, March 2, 1990 Daily News-Sun, Sun City, Ariz.

## Age law will be met

—From A1

would come out the same," Hoyt said. "The recreation centers are continuing to collect the information to keep the data up to date so we encourage all members to fill out the forms."

In addition, the subcommittee reported that hundreds of renters and residents living in life-care centers are also older than 55.

The number of renters in Sun City, which is estimated at 2,000, are ineligible for recreation center cards and are not included in the data.

But even if all 2,000 renters were younger than 55, which Hoyt said is unlikely, Sun City would still comply with 92 percent.

The subcommittee submitted a long list of organizations that contribute to the "health, safety, welfare and social needs

of Sun City residents."

In an eight-page letter written by Hoyt and committee member Julius Balick, a number of examples are given to show that Sun City is geared for retirement living.

"The homes were designed to meet the special requirements of an older population . . . doorways are wide enough to admit wheelchairs. Sloping curbs replace the usual vertical ones," the letter says.

Also included in the information is a letter from the Sun City Board of Realtors stating that Realtors are aware of the regulations and will obey them.

Bob Brittain, principal planner for the county, said he has submitted the materials for the county attorney to review.

Brittain said of the five retirement communities that have filed the "evidence" with the county, only Sun City West has

received notification that it officially complies with the regulations.

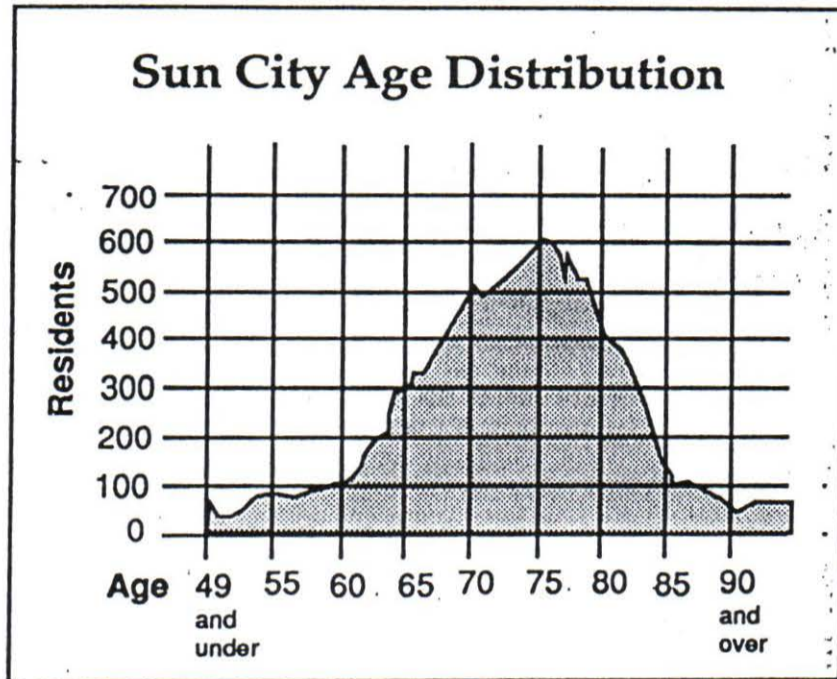
He said the other four communities, located in East Mesa, need to resubmit additional information.

"But even though an area hasn't received final approval, that doesn't mean the ordinance is not in affect," Brittain said. "As soon as the criteria are met, the county attorney will enforce any violation."

The county is now investigating a complaint alleging that a 7-year-old has been residing in Sun City West. The complaint was held in abeyance until the community received its certification.

Several HOA members said there is a rumor that a similar investigation will be conducted in Sun City after the county reviews the application for certification.

(OVER)



Daily News-Sun graphic by Jennifer Crookes

**AGE QUESTION** — A survey of local residents showed more than 99 percent of Sun City homes were occupied by a person 55 years or older.



*News Sun*  
 28 PAGES *July 10* VOL. XX

# Age 55 zoning is OK'd

By JACQUE PAPPAS  
 News-Sun staff

PHOENIX — Retirees in their early 50s will have to wait a bit longer before they are allowed to move into communities like Sun City and Sun City West.

The Maricopa County Board of Supervisors today approved altering its senior citizen overlay zoning ordinance by raising the minimum age limit to 55 from 50.

The ordinance change, which affects about eight major retirement communities in the county, will become effective Aug. 10.

The board voted 3-1 to raise the minimum age, acting on a unanimous recommendation from the county's planning and zoning commission.

Legal staff has recommended the county's senior overlay zoning be made to conform with federal legislation that went into effect March 12.

The landmark federal legislation, an amendment to the 1968 Civil Rights Act, prohibits most communities from banning children.

The federal law says children can still be barred from a community where 80 percent of the homes are occupied by at least one person 55 or older or those occupied solely by people age 62 or older where "significant services and facilities" are provided.

The present county ordinance allows communities like the Sun Cities and parts of Youngtown to impose minimum age restrictions of 50 year old. In the Sun Cities, at least one resident of a household must be 50 or older. No one under 18 is allowed to be a permanent resident.

Supervisor Carole Carpenter, a Phoenix Democrat whose District 3 includes the Sun Cities, said the ordinance change was needed to continue a 10-year policy of protecting senior adult communities.

"People are drawn to retirement communities as they get older. They want the security and they don't want to be isolated," Carpenter said. "While all do not choose that lifestyle, that lifestyle should be available to people and is clearly available under federal law."

Supervisors Fred Koory, R-Dist. 3, and Tom Freestone, R-Dist. 1, joined Carpenter in supporting the ordinance change. Supervisor Jim Bruner, R-Dist. 2, was absent.

Supervisor Ed Pastor, D-Dist. 5, voted against the ordinance

See County, A4

## County OKs age limit

—From A1

change, upholding a long-standing record of opposition to senior citizen overlay zoning.

Pastor said he would have supported a different option to eliminate senior citizen zoning altogether.

"We've had cases where families brought children into retirement communities. It has created undue hardship when they are forced to leave. That is something very difficult for me to accept," Pastor said.

Hundreds of residents from retirement communities throughout the county attended a June 8 meeting of the planning and zoning commission because they feared the ordinance change would not be approved.

Only two residents from retirement communities spoke today in favor of the ordinance change before the vote was taken.

Phil Vision, of Sun City West, said failure to change the ordinance would subject communities to an unfair burden in the event decisions of local zoning boards were put in jeopardy by extensive litigation.

# HUD officials invited to inspect Sun Cities for housing exemption

By **BRET McKEAND**  
Sun Cities Independent

Department of Housing and Urban Development officials say they are willing to visit the Sun Cities to determine firsthand if the retirement communities should be exempt from federal laws banning seniors-only housing developments.

Ever since it was approved, area residents have speculated what the federal Fair Housing Amendment of 1988 will

mean to the Sun Cities.

Convinced that Sun City, Sun City West and Youngtown, may be exempt from the law, local officials have invited HUD representatives to view the communities.

It is not yet clear when HUD officials will be visiting the Sun Cities; or what they will do once they arrive.

Representatives of several local organizations, however, say they are willing to assist

in any way they can to help the Sun Cities obtain official exemption status from the federal government.

The federal Fair Housing Amendment of 1988, approved last year by Congress, prohibits housing discrimination based on age, handicap or family status.

Although the amendment was directed primarily toward single-family dwellings (apartments and condomini-

ums), local residents are worried that it may impede the retirement status of the Sun Cities.

Officials from several Sun Cities organizations are asking HUD to "pre-qualify" the Sun Cities and allow the communities to be exempt from the new law.

"The new law covers the entire country," says Al Spanjer, president of the Property Owners and Resi-

dents Association in Sun City West.

"We're not sure how it applies to retirement communities but they (HUD) have been talking about exemptions," he adds.

"They've said, 'we're not out to get you, but you have to meet certain requirements'," adds Mr. Spanjer.

To be exempt from the Fair

*See HUD, page 2*

## • HUD *From page one*

Housing Amendment, all of the residents living within the development must be at least 62 years of age or 80 percent must be at least 55 years of age or older.

In addition, the development or community must be tailored-made to meet the needs of older citizens.

All three communities are protected locally by ordinances which require at least one member of every household to be 55 or older. No one under the age of 18 is allowed to live in Sun City or Sun City West.

Despite these ordinances, the Sun Cities -- at least in the eyes of the federal government -- are, at the present time, no present time, no different than any other community.

"In the event of (an age-discrimination) complaint, we're going to have to prove (to the federal government) that we qualify to be exempt from the law," says Mr. Spanjer.

"We may as well do it now," he adds.

Mr. Spanjer says there should be "no problem" earning the exemption status.

Earlier this year, officials from PORA, the Sun City Home Owners Association and Youngtown wrote to Sen. Dennis DeConcini and Sen. John McCain, asking for assistance in their efforts to gain "pre-certification."

According to Mr. Spanjer, it was Sen. McCain who relayed

the request to Jack Kemp, HUD director.

HUD officials responded last week to Mr. Spanjer, saying they would be willing upon request to visit the area to determine if the communities meet the proper requirements for exemption.

Mr. Spanjer is not sure what needs to be done at this point and is hoping to discuss the matter further with HUD officials.

"The only hang-up now is what they expect from us," says Mr. Spanjer.

"Certainly, it would be a monumental task if we were expected to go out and get a photocopy of every resident's birth certificate," he adds.

But whatever it takes, we'll do it. When they (HUD) come out we will be ready to prove we qualify."

Even though the majority of Sun City residents meet the exemption requirements, William Forman, president of the Sun City Home Owners Association, says it is "too early to tell" what will happen once federal officials examine the communities for themselves.

"We won't have a handle on this until we sit down with HUD officials," says Mr. Forman.

"They're kind of feeling their way through this thing also."

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Daily News-Sun, Sun City, Ariz. Wednesday, May 3, 1989

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# PORA will back 55-age zoning measure

By CHRISTINE SELIGA  
News-Sun staff

SUN CITY WEST — The Property Owners and Residents Association (PORA) board has voted to support changing the county senior citizen overlay zoning ordinance by raising the minimum age requirement to 55 years old.

With the change, the ordinance will better match exemption requirements for the elderly in an addition to the federal housing law that bans discrimination in housing for people with children and the handicapped.

The board also voted to ask the PORA president to write to legislators and officials who could help add a

certification process to the law for retirement communities that meet the exemptions for the elderly.

"The way it stands now the only way you can see if you can do what you're doing is through litigation and that, to many of us, seems ridiculous," board member Sandy Goldstein said.

Goldstein also is a member of the Maricopa County Planning and Zoning Commission. He said the commission probably will set a date for a hearing on the senior citizen overlay zoning ordinance at a committee meeting this Thursday.

The Maricopa County attorney's office said the present ordinance conflicts with the changed federal law. The or-

dinance affects the Sun Cities and other retirement communities in Maricopa County.

The ordinance says at least one household occupant must be 50 years old or older. No one under 18 years of age may be a permanent resident in the senior citizen overlay district.

Last year, Congress added an amendment to the 1968 Civil Rights Act that made it illegal to discriminate against children and people with handicaps in housing.

The law did provide an exemption for senior housing with all residents 62 years old or older or if 80 percent of the residents were 55 or older and "significant service and facilities" for

older people are available.

The board discussed adding a provision to the law that would allow communities to be certified if they meet the exemption requirements.

A certification process to show a community meets the exemptions is not in the law and the law is ambiguous about how exemptions will be handled. The "significant services and facilities" required in the exemption are not defined.

Another problem in applying the law to retirement communities such as Sun City West is that it was not meant for a community, PORA president Al Spanjer said.

"I think the intent of the legislation

was to look at a building, an apartment building, not a community," he said.

Goldstein and PORA board member Glenn Weatherby will be PORA representatives on a Sun City Home Owners Association committee examining the issue.

In addition to the Sun Cities, there are five other retirement communities in unincorporated areas of the county that use senior citizen overlay zoning, Goldstein said.

The board motions came through board member John Nordin as recommendations from the PORA planning committee he heads.

Daily News-Sun, Sun City, Ariz. Thursday, March 30, 1989

# Age restrictions have Realtors in a bind

By JACQUE PAPPAS  
News-Sun staff

SUN CITY — Although Del Webb Corp. raised the minimum age requirement for buying new houses in its developments, area real estate brokers say they don't have the power to enforce limitations on resale property.

Webb raised to 55 the minimum age requirement for buying new houses in its developments, such as Sun City West, to comply with a federal housing law that took effect March 12.

The law, a congressional amendment to the 1968 Civil Rights Act, bans housing discrimination against the handicapped and families with children.

The law says children cannot be barred from adult-only housing except in retirement communities where all of the resi-

**'It's our obligation to tell a buyer that someone has to be at least 50 years old to live there. But we can't tell them they can't buy the property . . . . The restriction is on living — not on buying.'**—

Jack Martin  
executive vice president  
Sun City Area Board of Realtors

dents are 62 or older or where at least 80 percent of the residents are 55 or older.

Sun City West's original age limit was 50.

But regardless of Webb's action, area real estate brokers say

they will not conform to the company's new age limit unless Maricopa County zoning laws are changed.

Jack Martin, executive vice president of the Sun City Area Board of Realtors, said zoning laws apply to the resident of a home and not the owner.

"When you're talking about re-sales, we don't have much power to do anything," Martin said. "Until there's a change in the overlay zoning laws we will have to go by the 50-year age limit."

"It's our obligation to tell a buyer that someone has to be at least 50 years old to live there. But we can't tell them they can't buy the property . . . . The restriction is on living — not on buying."

Although it is not common, Martin said people who do not

meet the age restriction sometimes buy properties in the Sun Cities and rent them to seniors.

He said people younger than 50 can legally own property in Sun City or Sun City West as long as they do not reside in the home.

Nevertheless, Martin said he does not foresee a problem with age compliance in the area's retirement communities.

"I don't really think that 55 is going to hurt anyone because most people here are older anyway," Martin said. "We will look into the situation, but we can't come up with any decision until we know exactly what the score is."

The county ordinance review committee will discuss possible revisions to the age restrictive zoning April 20.

Although the zoning has yet to

be changed, Webb executives said they will maintain a 55-year age limit on new home owners and buyers.

Martha Moyer, spokeswoman for Webb, said the company doesn't think its retirement communities are in jeopardy of non-compliance, but wants to "be on the safe side."

"Although the zoning says one occupant must be at least 50, we will not sell our new developments to anybody under 55," Moyer said. "We will not be a party to that, even if it's a younger person buying for investment purposes. Perhaps some Realtors will sell to people under 55, but we will not."

Webb's age limit increase does not affect Sun City, which is no longer under the control of the retirement community development firm.

Even so, residents in the retirement communities are still required to sign a contract verifying that someone occupying the residence is 50 or older, said Ron Smith, owner of Mull Realty.

Smith said Realtors and many others are unclear whether the federal law restricts residents younger than 55 or just requires communities to meet the specified guidelines.

"There's nothing that we can do," Smith said. "It's really not up to us; it's up to the zoning people. There's not a whole lot we can do until we have more direction."

"When there is a clear and concise direction — we will certainly abide by it," Smith said. "We are now taking a wait-and-see attitude."

# OUT FRONT

*Is 45 too young for Sun City?*

*Stopping the junk mailers at their own game*

*How do you clean an oil-soaked bird?*

## A MODEST PROPOSAL

### Breathing new life into Sun City

The way some folks in Sun City, Ariz., talk, you'd think 71-year-old Jim Jacob was planning to stage heavy metal rock concerts in their neighborhoods.

Actually, Jacob, a retired mechanical engineer, is making what he considers a modest proposal: Lower the minimum age of home buyers from 50 to 45. It is a change he says will breathe new life into this aging retirement community. And his "solution" might also work for other struggling communities around the nation.

But his proposal has generated no shortage of verbal electricity in Sun City (pop. 40,505 according to the 1980 census).

Some of the hottest sparks come from Nat Jampel, an outspoken opponent of changing the age. "The guy's moving out of Sun City, so why in the hell do you want to talk to him?" says Jampel.

"Forget everything Jampel tells you," replies Jacob. But he acknowl-

edges he is selling his home and plans to move back to the Midwest. "Jampel's a radical," Jacob claims. "Everything that comes up, he's against."

Jacob says he wants to "save" Sun City, which is declining in population, even though he won't be there to enjoy the benefits. So he is preparing his 12-person steering committee for a petition drive this fall. They need to collect signatures of more than half the homeowners to make the change, he says.

To support his argument, Jacob notes that participation in community activities has de-

clined. For example, nearly ten percent fewer rounds were played on Sun City's eleven golf courses in 1987 than the year before. True, the cost of playing did go up \$1.50 a game. Still, the recreation management took the unprecedented step of opening up the courses to the general public this summer.

Meanwhile, opponents of lowering the age take the attitude, "if it ain't broke, don't fix it." And, Jampel argues, younger homeowners would bring younger offspring, maybe even more crime and noise. Eighteen is now the cut-off age, a restriction that even Jacob favors

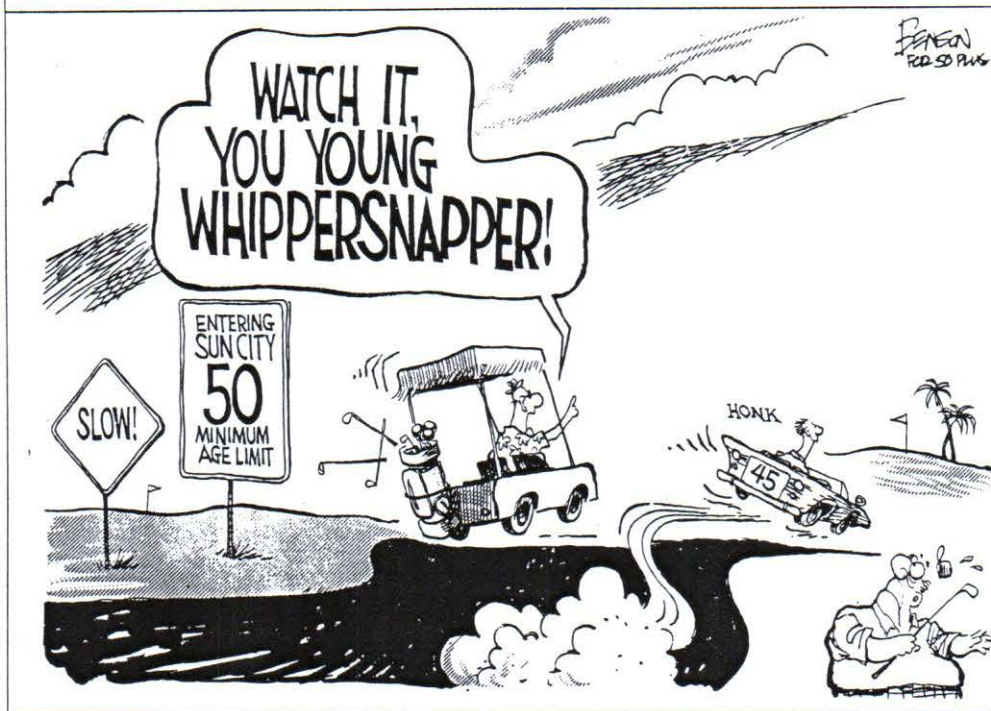
maintaining.

Anyway, Jampel adds, critics have been predicting falsely for the 28 years since Sun City was opened by the Del E. Webb Corporation that "everyone would die and leave the place a ghost town."

One person who thinks just such a scenario could happen is Deborah Sullivan. An Arizona State University sociologist, she has studied Sun City extensively. "The aging problem is so acute that merely lowering the purchase age won't make a hill-of-beans difference," she says.

According to 1982 figures, 76 percent of the

CONTINUED



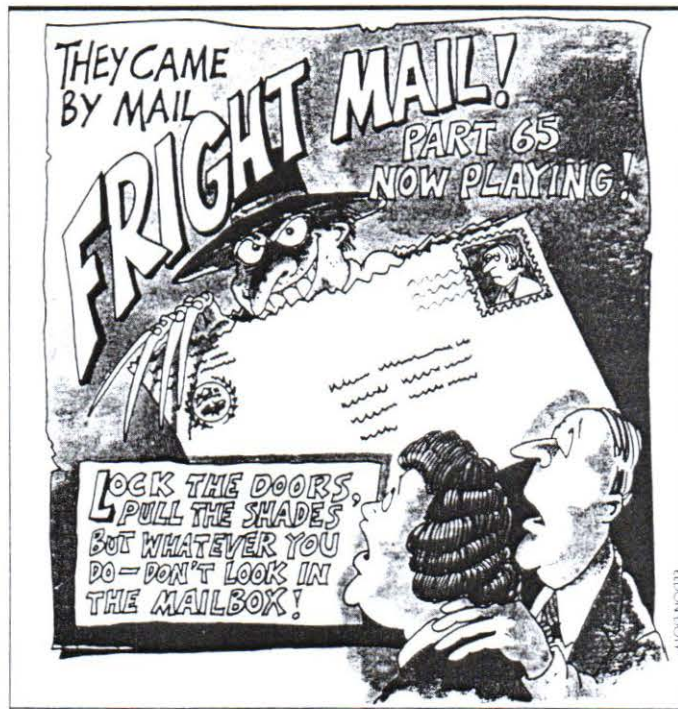
population was 65 or older and 23 percent was 75 or older. It follows that "the proportion of people 80 and over will grow rapidly." Already, she observes a "proliferation" of nursing homes. (Jacob says there are 17 compared to 1 a decade ago.)

Despite such evidence, no civic organization supports the age change, says Murray Karsten, an officer in the Sun City Taxpayers Association. But he supposes some real-estate salespeople are in favor.

In the mid 1980s, about 900 housing units were sold each year in Sun City, according to figures compiled by David Lutin, a housing market analyst. This year, homes are being sold at about half that rate. Sales in other retirement communities also are down. He believes the decline is only temporary.

Ultimately, Jacob may be facing an uphill battle. Sun Citians have a reputation for being exclusive. But Jacobs remains optimistic. "People are starting to wake up," he says. "We're getting more and more support." He points out that the Del E. Webb Corporation is using 45, not 50, as the minimum age in its new development near Las Vegas, Nev.

Even in Arizona, newer adult communities are using 45, and even 40, as the minimum. And these developments report few age-related problems. Says one sales manager, "Once in awhile we'll have a com-



plaint that somebody's grandkids are living with them, but that's about it."

The trend in Arizona toward lower age minimums apparently is atypical of the rest of the nation. If anything, says George Genung, director of senior housing for the National Association of Home Builders, "the market is growing older."

"In Arizona, they've overbuilt," Genung says. "The market has dropped dead." In an effort to survive, he complains, some developers are "destroying the concept" of retirement communities.

Most Sun City residents, it seems, would agree, or at least would adhere to the old saying, "I'm glad to see my grandchildren come, but I'm gladder to see them go." —MIKE TULUMELLO

# Taxpayers group joins fight against drop in Sun City age requirement

By JACK WEST  
The Arizona Republic

3-9-88

A plan to lower the age requirement for residence in Sun City drew new opposition March 1, when the Sun City Taxpayers Association voted unanimously in favor

of maintaining the current restrictions.

Now, at least one member of each household must be at least 50 years old, and no residents under 18 are allowed.

James Jacob, chairman of the Forty-Five Years Over-

lay group, is proposing that the 50-year requirement be dropped to 45 years.

Jacob said his plan would "solve many problems connected with our aging population," including helping businesses that are reporting declining sales, helping

the community's recreational facilities that have reported dropping revenues and helping the sale of homes to newcomers.

Sun City, he said, has many homes for sale that just aren't selling.

Jacob added that he is

moving to another climate, for health reasons. As a result, he said, his house, a two-bedroom, two-bath home with 1,700 square feet, is listed for sale with his wife, Jan, a real-estate agent.

The taxpayers are the

latest in a growing list of organizations opposing the plan.

Earlier, the Sun City Home Owners Association board of directors and the Retirement Community Association of Sun City re-

— Age, Extra D

## AGE

Continued from Extra A

jected the idea.

Kay Sentes, president of the community association and a member of the Taxpayers board of directors, said lowering the age requirements would bring unwanted changes to the community.

Sun City West's Property Owners and Residents Association also moved against Jacob's plan, although it would not affect their community.

Jacob appeared before the Taxpayers Association on Feb. 2, but that organization did not take a stand on the issue then, when board members said they needed more information.

Jacob said rejection of his

plan by the Taxpayers Association and other groups is not surprising.

But, in turning down the idea, he said, those organizations are not representing the best interests of their memberships.

Meanwhile, Jacob's group is soliciting donations, preparing for a big push to collect enough signatures to change Sun City's age-restrictive zoning. That will mean the signatures of owners of more than half of each of Sun City's 106 units. Sun City has 29,976 homes.

"Too many people leave here in the summer," Jacob said. "We're going to wait until fall to start distributing our brochures and start the signature drive."

# Homeowners board refuses to lower age minimums

By JACK WEST  
The Arizona Republic

By voice vote Feb. 9, the board of directors of the Sun City Home Owners Association voted against supporting a proposal to lower the minimum-age limit for residents.

Restrictions now in effect require that at least one member of each household be at least 50 years old and no residents are allowed who are under 18.

James Jacob, chairman of the Forty-Five Years Overlay group, has proposed that the 50-year requirement be

dropped to 45 years.

Jacob said his group is not seeking changes in the 18-year-old minimum rule.

The association board acted on a recommendation from its advisory council.

Director Eileen Corcoran said she felt negative toward the idea of lowering the age requirement at first, but then had discussions with groups that favored the plan so strongly that she was changing her mind.

Director Elmer Biel said he at first believed the cut in age requirements might be a good idea, but then spoke with people so op-

posed to it that they threatened to drop their association memberships if he supported the plan.

Director E. Van Cromwell said he felt that claims of benefits the change would bring to Sun City had been exaggerated.

And, if an attempt is made to alter the age-specific zoning, he said even the current zoning might be endangered, because some members of the Maricopa County Planning and Zoning Commission feel such zoning is discriminatory.

The Sun City Taxpayers Association didn't take a

stand on the issue when Jacob and members of his group presented their case to them Feb. 2.

Members of the taxpayers board said they needed more information.

"Between HOA, the Rec Centers and the taxpayers, that represents about 30 complete people," Jacob said.

"We're interested in about 29,000 people. When we started this, we knew the Taxpayers, the Homeowners and the Rec Centers had a negative attitude about everything, and they still do.

"We have to get some of

these negative people to turn around and be more positive," he said, referring to board members of all three groups.

The plan also brought opposition from the Retirement Community Association of Sun City.

The president, Kay Sentes, said that lowering the age requirements would bring unwanted changes to the community.

At first, the "45 committee" planned to gather enough signatures to force an election, and submitted a request for a change in the age-specific zoning to the

county Planning and Zoning Commission.

Jacob later withdrew the request, saying that the election would not be needed if enough petition signatures could be gathered. That would mean, he said, signatures of owners of more than half of each of Sun City's 106 units, which are uniformly sized subdivisions. Sun City has 29,976 homes.

He has not yet started the petition drive.

The age-reduction plan would affect only Sun City but residents of Sun City West are highly aware of it.

over — Lower, Extra-L



At the monthly membership meeting of Sun City West's Property Owners and Residents Association on Feb. 11, members were told that the organization's planning committee, acting on a recommendation by the executive committee, had decided to send a letter to county officials, asking them to reject Jacob's request to lower the age limit.

When Jacob withdrew his request, the plan to send the letter was abandoned.

Jacob has said his plan would help businesses, which have reported drops in sales, and the community's recreational facilities, which have reported losses in revenues.

He also said it would help the home sales.

But, homes are selling well in Sun City, said Jack Driver, a sales- and property-management agent for O'Keefe Real Estate/Better Homes and Gardens.

"I've had people tell me we have 1,400 vacancies," Driver said. "Well, that includes our whole MLS (Multiple Listing Service) system, which takes in houses clear out to Morristown and part of Peoria.

"In the Sun City/Sun City West area we have about 1,200 homes for sale. That's out of 34,000. That's slightly less than 4 percent."

And, Driver said the community's vacancy rate on rentals is only about 3 percent.

But, while Sun City real estate is moving well, Driver said, he favors Jacob's proposal to lower the age requirement.

"Mr. Jacob is trying to undo what was done in July of 1985, when they (Maricopa County officials) passed the restrictions out here," Driver said. "I think doing that was a mistake, told them so at the time."

Until the zoning was passed, Driver said, age restrictions were controlled by the recreation centers.

"People had to meet the restrictions to participate in the recreation activities. So, who'd live here if they couldn't use the facilities?

"If it can be done politically, they should just remove the whole age restriction."

# Group stops campaign to lower SC age code

By JACQUE PAPPAS <sup>2-5-88</sup>  
News-Sun staff

SUN CITY — A group seeking to change the minimum age in Sun City from 50 to 45 has withdrawn its request to alter a county senior citizen zoning article but will still pursue the matter on a local basis, county officials said.

Richard Turner, principal planner for the Maricopa County Department of Planning and Development, said Thursday the department was sent a letter authorizing the withdrawal of a group's request to change the county article.

"When an applicant withdraws, we no longer look into it," Turner said. "We have abided by their request. I think they will still pursue it in Sun City."

The letter, dated Feb. 1, was sent by members of Forty-Five Years Overlay, a group of Sun Citians who originally petitioned the county for the age change.

The proposal would have lowered to 45 the minimum age for at least one resident of a home. The proposal would have continued to prohibit anyone

The Daily News-Sun's informal coupon poll of readers' opinions of the proposal to reduce Sun City's minimum age to 45 brought 204 replies. There were 140 who said "no" to the 45-year age limit and 64 who said "yes."

under 18 from being a permanent resident of Sun City.

In January the planning and development commission voted 5-4 to send the petition for the age change to a county ordinance review committee to further investigate the issue.

The committee was scheduled to review the petition in a meeting Thursday.

Jim Jacob, chairman of Forty-Five Years Overlay, said the group decided to withdraw the petition because some commission members might have attempted to completely eliminate county age restrictions.

Jacob said several commission members have said they feel age restrictions are discriminatory and may have recommended an age limit even lower than 45 years.

"In the best interest of the

whole community I thought it would be best to withdraw the petition from the county. But we are still going to continue right along with our efforts to change the age here in Sun City," Jacob said. "This is in the best interest of our adult resort living area. It would just be that the county would not defend the age limit, but places like Westbrook Village (in Peoria) get along fine defending it on their own."

Jacob said there are about 20 adult resort living communities in Maricopa County that come under the umbrella of the county 50-year minimum age requirement.

Since all such communities can represent themselves at all county hearings on the subject of age restrictions, Jacob said the county article change is not necessary.

Jacob said the group initially petitioned the county for the article change to have the assurance of county support.

"These areas also have no problem maintaining their 18-year age restriction, either,"

See Age code, A2

## Age code

—From A1

Jacob said. "And some of the areas have age restrictions lower than 45."

Jacob said having a 50-year age minimum is too restrictive a requirement to develop and maintain a successful retirement community.

As a result, he said two new retirement communities in the Valley (Sun Lakes and Westbrook Village) have a 45-year new minimum age and another has a 40-year minimum (Leisure World).

If the group had not withdrawn the petition, the zoning ordinance amendment would have gone through several committees and public hearings before being submitted to the board of supervisors for approval or denial. The measure would have ultimately gone to Sun City voters.

Jacob said the group hopes to be refunded a \$50 filing fee it paid to the county when the petition was submitted.

# Is Sun City too elderly?

*Advocacy group proposes shaving five years from minimum age laws*

By **BRET McKEAND**  
and **RICK GONZALEZ**  
Sun Cities Independent

Claiming that current age restrictions in Sun City are "too restrictive" and are actually prohibiting future growth, one group of local residents is beginning a campaign to lower the minimum age presently required to live in the community.

Leaders of a group calling themselves the "Forty Five Years Overlay" organization say they will soon begin a drive to lower Sun City age restrictions from 50 to 45. The drive will include efforts to lower the county Senior Overlay Zoning as well as the age requirements of the Recreation Centers of Sun City, Inc.

Jim Jacob, chairman of the organization, says Sun City needs to "update its requirements" in order to better compete with surrounding retirement communities.

Current Sun City deed restrictions require that at least one resident of the household be at least 50 years of age. No one under 18 is allowed to live in Sun City.

The age restriction is covered by a Maricopa County Senior Zoning Overlay ordinance. It is the responsibility of the county to enforce the law.

"It would be for the good of Sun City," says Mr. Jacob. "Fifty

years of age is too restrictive to develop and maintain a successful retirement community."

Mr. Jacob contends that a lower age limit would make it easier to sell homes in the area, which in turn would increase the population in Sun City and provide more income for local businesses.

And, says Mr. Jacob, since all homeowners are required to belong to the Rec Centers, added growth within the community would directly benefit the Centers.

At the present time, Mr. Jacob is joined in his efforts by Bernie Boot and Byron Guernsey.

Mr. Guernsey says the main reason he supports the lower age requirement is because "right now, the average age in Sun City is 70, maybe even slightly higher.

"And many times, one spouse in the home has passed away." As a result, Mr. Guernsey says, the population is lessened, which affects "the amount of fees" which are collected in Sun City from residents.

Mr. Guernsey contends that if the age requirement was dropped to 45, more people would be attracted to the community. Consequently, he says, more money would come to Sun City, since more people would be paying fees for use of the community's facilities.

"It (lower age requirement) would also tend to lower the average age of Sun City people," adds Mr. Guernsey.

With the current age limit, he says, "we (Sun City) are losing customers, potential buyers (of Sun City homes)."

See AGE, page two  
OVER

## • AGE

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### *From page one*

If the potential buyers are not allowed to buy in Sun City, says Mr. Guernsey, "they might go and buy elsewhere."

Although they have a few other supporters, Mr. Jacob says the first goal of the group is to recruit additional volunteers to help with their petition drive. Mr. Jacob says the organization needs to raise \$4,000 to conduct its campaign.

Mr. Jacob says his group's efforts will include an attempt to change the Senior Zoning Overlay ordinance at the county level, while simultaneously trying to change Rec Centers age restrictions.

According to Bob Brittain, principle planner for the county Planning and Zoning Commission, to change a zoning ordinance a resident must submit a \$50 filing fee and a letter describing the requested change to the Commission.

The Commission will first review the request and decide whether or not it should be voted upon. If they decide to consider the request, the matter will be forwarded to a review committee for further study.

The Planning and Zoning Commission will eventually schedule public hearings on the matter and discuss the issue further. They will then forward the request to the county Board of Supervisors for a final decision.

The entire process can be expected to take about four months. Although Mr. Jacob has submitted his filing fee and letter requesting the change, the Planning and Zoning Commission has not yet decided whether it will consider the matter.

The organization also hopes to begin a petition drive requesting that the Rec Centers lower their age requirement from 50 to 45. They will have to gain signatures from 10 percent of all Rec Centers members in order for the issue to be put to a vote before the general membership.

Louis Grunwald, president of the Recreation Centers of Sun City, Inc., says the board is aware of the drive to lower the age restrictions. He says there is nothing the board can do about it at this point.

"The age limits are in the deed restrictions," says Mr. Grunwald. "They (the Forty Five Years Overlay group) would have to change those first before we (Rec Centers) could change our requirements."

Mr. Grunwald, however, feels that lower age restrictions would not help the Rec Centers as much as the group contends. He says the Rec Centers would not be as attractive to a younger person who may still be working and who wouldn't have time to use the recreational facilities.

The group has contacted the Sun City Taxpayers Association (SCTA) and the Sun City Home Owners Association (HOA) to inform them of their intended drive.

Mr. Jacob says SCTA says it will discuss the issue at a later date.

HOA board member Julius Balick says the issue will probably be discussed at a forthcoming board meeting, but "we (HOA) still don't know enough about the issue to decide if we do or do not support the move.

1-13-88

# Group pushes 45 for Sun City age zone limit

By JACQUE PAPPAS  
News-Sun staff

SUN CITY — A group of area residents is starting a petition drive to change the minimum age requirement for a Sun City resident from 50 to 45 years.

Members of "45 Years Overlay" hope the ordinance change will increase the sales in area shopping centers, add new prospects as possible buyers of Sun City residential property and help stabilize and reverse the downward trend of property values.

Jim Jacob, chairman of the group, said "We want to change the minimum age of our members and one resident to 45. Many people may think this will let children in the area. But it won't. We want to keep the restriction only allowing those 18 years and older to live here."

Jacob said the group hopes to amend the senior overlay zoning ordinance through Maricopa County as well as the Recreation Centers of Sun City Inc.

Jacob said the group needs to raise about \$3,200 for the printing of petitions, distribution materials and newspaper inserts informing area residents about the proposal.

In order to hold an election to amend the minimum age requirement in Sun City, 10 percent of 42,840 homeowners eligible to vote must sign a petition, Jacob said.

When the 4,284 petition signatures are collected, they would then be given to the Recreation Centers of Sun City Inc. for verification.

"Not only would Sun City be helped but the surrounding businesses in cities like Youngtown would be helped, too. This is just getting off the map," Jacob said. "But first we need to raise money and to do this we need volunteers."

Jacob said about 36 Sun City residents are needed to help solicit contributions, 150 are needed to contact homeowners to sign a petition and the group needs a treasurer to handle the accounting of the project.

Jacob said he has already turned in a filing fee of \$50 to the Maricopa County Department of Planning and Development to initiate amendment proceedings of a section of county ordinances that requires a 50-year age minimum in Sun City.

"Any area can do what they want as long as they get permission. They (the county) can arrange it so it is 45 instead of 50. This would encompass more retirement areas," Jacob said. "But it will take at least four months to complete this process through the county."

Now that the request has been filed with the county, Jacob said the request for ordinance amendment will be scheduled to appear before the Arizona Corporation Commission.

The zoning ordinance amendment will then go through several committees and public hearings before being submitted to the board of supervisors for approval or denial.

Jacob said having a 50-year  
See Age, A5

## Age change

—From A1

age minimum is too restrictive a requirement to develop and maintain a successful retirement community.

As a result, he said two new retirement communities in the area (Sun Lakes and Westbrook Village) have a 45-year new minimum age and another has a 40-year minimum (Leisure World).

During the mid-1960s and early '70s, Jacob said the average age for Sun Citians was about 55 years. This year the average age is approaching 70 years, he said.

And the older the average age of residents in Sun City, the less recreation facilities, golf and bowling facilities are used, Jacob said.

Jacob cited the decline in the number of rounds of golf and lack of participation in bowling as an example.

"The thinking people in the community will want this. It would benefit us because we have hundreds of homes that are vacant. This could put some money back into the coffers that Sun City needs," said Reuben Burnham, also a member of 45 Years Overlay. "We need to bring more people here to the community to compete with other communities. Del Webb (Del E. Webb Communities) has seen the light. They have already gone to 45 in many of their development communities. It was bound to happen."

# Senior zoning wins panel OK

By SUE MEULENDYK

Staff Writer

Maricopa County Planning and Zoning commissioners voted 5 to 3 Thursday to recommend approval of senior citizen overlay zoning for Sun City.

Their recommendation will be forwarded to the county Board of Supervisors and could be scheduled for a hearing as early

as June 18.

Commissioners Harold McCall, Dale Smith and Earl de Berge voted against the measure. During Sun City West's drive for the zoning, approved by the county in April, de Berge was the only "no" vote.

About a dozen Sun City residents waited more than 1½ hours for the vote. The discus-

sion took only minutes and no opposition was voiced. Those who voted against it gave no explanation for their action.

Betty Pearlman of Sun City, who has led the zoning drive, told commissioners three-quarters of the residents support the measure.

"It's apparent this is the wish of the community. In two days, we got 62 percent of the signatures," she said. "We feel Sun City is the epitome of an active retirement community and we want to keep it that way. We feel we owe something to the people who moved here under that pretext."

The planning staff, which researches all applications, recommended approval on the basis of the developer's intent for a senior citizen community and the lack of an adverse impact on surrounding areas.

Also approved was a request by Del E. Webb Development Co. to rezone 80 acres southeast of Bell Road and the 115th Avenue alignment for a recreational vehicle storage area for the Sun Cities.

## Ordinance bars children from living in Sun City

By Jim Walsh  
Northwest Valley Bureau

Homeowners and landlords will risk fines or jail sentences if they allow additional children to move into Sun City for more than 90 days without permission from Maricopa County.

The county's senior-citizen zoning ordinance — aimed at preventing children from residing full time in unincorporated retirement communities — was extended to Sun City on Monday by a 4-0 vote of the Board of Supervisors.

Supervisor Ed Pastor, who has voted against the ordinance on the grounds that it constitutes age discrimination, attended the meeting but was not present when the vote was taken.

"We're very happy and reassured that Sun City can continue as a retirement community," said Betty Pearlman, chairwoman of the Sun City Committee for Senior Citizen Overlay Zoning.

The regulation bars children 18 or younger from residing in "senior zones" for more than 90 days unless a special-use permit is granted under hardship conditions by the county Board of Adjustment.

Peter J. Vicari, chief zoning representative for the county's Department of Planning and Development, said no one has requested an exemption since the law was adopted by the county in 1979.

At least one person in each household also must be 50 or older under the ordinance. The maximum penalty is four months in jail or a \$750 fine.

Starting Monday, the law covers 8,000 acres and 25,000 lots in Sun City.

The few children who lived in Sun City before Monday are not subject to the regulation but are barred from living in the 48,000-resident retirement community for more than 45 days under deed restrictions.

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# Babbitt regards age clauses enforceable

By **TIM CLARK**  
Staff Writer

Attorney General Bruce Babbitt told the News-Sun yesterday that he believes age restrictions in property deeds are valid.

"My view of the state of the law is that the (U.S.) Supreme Court has not definitely ruled on deed-based age restrictions, so there is room for argument," the state attorney general said in an interview after his address to the Sun City Town Meeting Association.

However, he believes the thrust of the Supreme Court's decisions supports his position that "If discrimination based on age is done by restrictive covenants rather than by government zoning, I think it's valid."

**BABBITT** said he believes age restrictions in deeds are both enforceable and constitutional.

In support of his position, he cited an Arizona Court of Appeals case in September 1974 that upheld a Pinal County Superior Court case on age restrictive deeds.

In that case, Riley versus Stoves, Babbitt said the appeals court "has upheld deed restrictions on age and said that enforcement can be by any other party to the deed restrictions."

**IN ADDITION**, he observed that the Arizona legislature has passed a statute that says basically the same thing.

However, Babbitt said, "It is very difficult to amend deeds," adding that some deeds contain no provisions for amendments.

(Sun City deeds may be amended if 51 per cent of the property owners support the change.)

"If the power to amend is there, then there is a second step," the attorney general said.

**IN GENERAL**, the power to amend restrictions is more limited than the power to place restrictions originally.

"It's a very sophisticated question as to how much power they have (to amend)," he said. He said it is necessary to read the entire document of deed restrictions to make the determination about amendments.

If the original deed and recorded restrictions covered age, then, Babbitt said, those age restrictions could be amended.

**HOWEVER**, if age restrictions were not contained in the original deed, Babbitt said it could be argued that age restrictions could not be added.

However, the attorney general

did not express a definite opinion as to whether age restrictions could be added to deeds that did not contain them originally.

Babbitt made a distinction between court rulings on age restrictions in zoning laws and those in deeds.

He observed the zoning ordinances are government actions, while deeds are private contract, implying that the court views the two differently.

**BABBITT** rejected the argument that civil rights legislation and court actions banning racial discrimination also would

apply to age discrimination by extension.

"Age restrictions per se are not suspect," he said.

He observed that valid age-based distinctions exist now, citing age requirements for driving automobiles and for the military draft.

Earlier Babbitt had addressed the TMA gathering about changes in the structure of the Arizona Corporation Commission.



**THE ATTORNEY** general said he favors moving the utilities division from the Corporation Commission to make it an independent advocate for consumers.

Babbitt compared the Corporation Commission proceedings to judicial proceedings, with commissioners acting as judges and utilities pushing their cases for higher rates.

"The person representing the consumer isn't really there, is only half there, or has a conflict of interest," the attorney general said.

**THE REASON**, he continued, is that the utility division is "fighting with one hand behind its back" because it is part of the Corporation Commission,

which also acts as judge in the case.

Babbitt urged TMA members, Arizona citizens, and the state legislature to broaden their emphasis from single rate decisions to restructuring the Corporation Commission.

He added that he expects a court case soon on whether the commission was justified in granting future rate increases without full hearings.

He said he preferred to save his thoughts on that issue for legal briefs rather than discussing them at the Town Meeting gathering.

In the interview, the attorney general said he feels the political climate is right now for changes in the commission's structure.

# Age restrictions in deeds can't be enforced, Webb finds

By **TIM CLARK**  
Staff Writer

Del E. Webb Development Co. has researched the issue of age restrictions in property deeds at least nine times since 1960, and each time the conclusion has been that such restrictions could not be enforced, Webb's general counsel told a Sun City audience Thursday.

Gerald Williams outlined the Webb firm's position for Sun City Host Lions Club in a talk entitled "Age Restrictions in Retirement Communities."

The first study to reach that conclusion came in 1960, Williams said.

**FOLLOWING** passage of the Civil Rights Act of 1964, which did not specifically mention age, legal circles debated the question of whether the act would affect age requirements, he continued.

The consensus, he said, was that the spirit of the act would encompass age so the development firm felt no age clause in deeds would be valid.

Despite the legal uncertainties of enforcing age restrictions in deeds, Williams said that in its 17-year history, "Sun City has retained its retirement character and lifestyle without deed restrictions."

**WEBB HAS** made a policy of not selling its new or resale homes to persons who do not meet the age standards of the community, he said.

"Sun City residents have retained and adhered to the same policy," Williams said.

"For 17 years now we have done through cooperation and self-help what could not be done through deed restrictions and the bureaucracy," he asserted.

"I CAN'T see in the foreseeable future any change in the lifestyle and complexion of Sun City," said Williams, adding that Webb would retain the retirement lifestyle in its Sun City West development.



Gerald Williams, attorney for Del E. Webb Development Co., enumerates reasons why Sun City is not suitable home for families with children. Williams explained Webb position on age restrictions in property deeds Thursday to Host Lions Club.

(News-Sun Photo)

The Webb attorney also defined the term "deed restriction," calling it "a set of restrictions and requirements placed on land before it is sold, to restrict activities on the land."

Technically, he added, the age restrictions in property deeds are known as "age clauses."

**ACCORDING** to the law, anyone who lives in the same plat as a deed violator may enforce the restriction, Williams said.

For condominium-dwellers, the plat includes everyone in the same condomium unit, Williams said.

Single-family homeowners have a more complicated situation.

The only way to determine who is in your plat is to pull out your closing papers and see how big your plat is," he advised owners of single-family homes. Plats vary from 120 to 350 homes.

The legal requirement that one neighbor had to instigate court action against another caused "a lot of disharmony," Williams commented.

"We recognized that and went to the Home Owners Association to ask if it would enforce the restrictions," Williams said.

**THE HOA** agreed and was named as the enforcing agent, he said.

Several years later, the HOA came to Webb and said it would like to have some discretion on enforcement.

At that time the language was changed from stating that HOA "shall enforce" restrictions to a clause that provides the "HOA may but shall not be obligated to enforce" the restrictions.

**"HOA HAS** done a fantastic job. We appreciate their effort in that vein," he added.

The Webb attorney also described the procedure for adding deed restrictions.

After 51 per cent of the owners in a plat agree, a change may be recorded with the county recorder's office.

"The real problem once you have done it is: 'Is it enforceable?' and 'Is it valid?'" Williams said.

**WILLIAMS** then cited two recent court cases in other states that bear on the question of age clauses in deed restrictions.

The first case was a U.S. Supreme Court decision on a zoning ordinance in East Cleveland.

The case involved a grandmother who had a grandchild living with her. Under strict interpretation of the zoning ordinance, the arrangement was illegal.

**IN RULING** against the zoning ordinance, "Basically the court said it was a contravention of family life," Williams said.

That decision on a zoning ordinance may affect age restrictions in deeds because in 20 years of Supreme Court decisions, "the courts have always been more lenient with zoning than with deed restrictions," Williams said.

"In my opinion, if it is not going to allow the zoning ordinance, the court is going to look at deed restrictions very hard," Williams commented.

**IN A RECENT** Florida case, an appellate court found a condominium group's age clause to be invalid and unconstitutional, he continued.

Williams expects that case to be appealed to the Florida and later the U.S. Supreme Courts, with a decision likely in two years.

Another questioner asked whether his grandchildren would be allowed to live with him if a tragedy befell the parents. Williams answered, "Yes."

**"OF THE** children in Sun City now, a good majority are here because the parents were killed or because for one reason or another they were not able to take care of the children," he added.

Answering another question, Williams said that if Webb sold a home to a family later found to have children, the developer would try to buy back the house.

If that were unsuccessful, Webb would be committed to bring a lawsuit against the buyers.

**HE ADDED** that he believes Webb's sales policy of not selling to families with children would stand up to legal scrutiny.

"The courts have said 'No' only to zoning and deed restrictions, not to sales policy. You can do that sort of thing in sales policy," he said.

In responding to other questions, Williams commented:

**-SUN CITY** West will have no schools and is not intended for children.

**-Sun City** West will have separate recreational facilities, although the library and Heading Ranch will remain as joint-use areas.

The question of whether residents of Sun City and Sun City West may share facilities in the future is "not up to us, per se; it's up to you," he added.

**-A WEBB-FUNDED** study of advantages and disadvantages of incorporation and other governmental arrangements for Sun City will be finished in 30-60 days.

"We asked an independent consultant to study the advantages and disadvantages and to make a

recommendation if possible. If it is not possible, then just give us the disadvantages and advantages," he said.

Once the report is submitted, Webb will make the information available to residents through meetings.

"We haven't taken a position; it is up to the residents. We want to provide as unbiased information as possible," he concluded.

## TMA reports realtors accept age restrictions

Most Sun City area real estate officials have indicated they accept and will comply with the Town Meeting Association effort to establish age restrictions in the community, the TMA reported.

The TMA notified 11 real estate firms earlier this month of the group's drive to establish age restrictions to preserve Sun City as an adult community.

Real estate officials were asked to comply voluntarily with the goal of preserving Sun City as an adult community.

In a followup survey of the firms last week, officials of 10 expressed acceptance and willingness to comply, while the 11th gave no

opinion either way, TMA publicity director Nat Jampel reported.

"All had a positive and professional understanding of the needs of those who wished to spend their retirement years in peace," Jampel said.

The TMA age restriction drive proposes that at least one per-

manent resident of any Sun City home must be 50 years of age or older and none may be under 18.

A question and answer session and discussion of steps for obtaining age restrictions are planned for the next town meeting, 9:30 a.m. Aug. 8 in the Alco Theatre. Reports from other committees also will be included.

NEWS-SUN

Tuesday, July 26, 1977

## Town Meeting Sends Realtors Letters On Age Restrictions

The Sun City Town Meeting Association has sent letters to 11 realtors serving the Sun City area advising them of the age restrictions issue.

In the letter, Captain Elbert Fryberger, chairman of TMA, notes that the "builders of Sun City have continuously required that purchasers of new property in Sun City be adult, with at least one person over 50 years of age, and no children under 18 years of age, in each individual household.

"With this rule to guide their sales activity, it is obviously the intent of the builder, and certainly the intent of the property owners of Sun City, not only to create an adult retirement community, but, equally important, to maintain and preserve Sun City for all time in the form it was originally intended," the letter continued.

Fryberger added in his letter that Town Meeting "is committed to helping all Sun Citians in having

their deed restrictions amended to include the age restrictions originally required by the builder."

The restrictive covenant that Town Meeting seeks to add to the deeds of Sun Citians is worded:

"At least one permanent resident of any of the said lots shall be 50 years of age or older. In no case shall there be a permanent resident on any said lots under the age of 18 years.

"For the purpose of these Declaration of Restrictions a permanent resident shall be defined as an individual who resides on said property for more than 45 days in any calendar year."

*Sun City Citizen*

# Age restriction filed by TMA for 48 homes

By JIM CULLISON  
Staff Writer

The property deeds of 48 Sun City homeowners were amended and recorded last week to provide age restrictions on residents of the homes, it was announced by the Town Meeting Association yesterday.

The action marked the first time any residence in Sun City has been governed by age restrictions, TMA officials indicated.

"For the first time . . . property owners are now taking the necessary steps to accomplish something they thought came with the purchase of their Sun City property—namely, age restrictions in their deeds," said Jack Spellman, chairman of the TMA deed restriction advisory committee formed last month.

SPELLMAN outlined steps for other residents to follow in setting age limits and said Town Meeting's goal is to have every Sun City property covered by age restrictions.

Deeds can be amended to include age restrictions through a petition process among property owners, he explained.

The age restrictions filed with the Maricopa County recorder last week specified that at least one permanent resident of a property must be age 50 or older and none can be under 18.

"PERMANENT resident" was defined in the petition as an individual who resides on the property more than 45 days in any calendar year.

Spellman said the formula for amending deeds is simple, but that

it is important to have the correct language and property identification in the petition and amendment.

Deeds with identical docket and page numbers may be amended on one petition if at least 51 per cent of the property owners sign the petition.

SPELLMAN recommended that interested single-family home residents contact their neighbors to compare their deed docket and page numbers and form a small committee for petitioning.

The committee can contact Town Meeting, and its advisory committee will assist with the project, he added.

Condominium residents may work within their own condominiums to obtain petition signatures, he said, adding that the board of management can act as the liaison committee or it can appoint a committee.

THE RETIREMENT Community Association of Sun City did much of the research on the amending process, Spellman said. The RCA had legal assistance from a law firm specializing in deed restrictions, and the firm advised that the process is legal and prepared the petition used in last week's filing, he said.

"We confidently feel we are now ready with the expertise and equipment to help you," he told the assemblage in Sun City Cinema.

Copies of the TMA's recommended procedure for amending deeds may be obtained by writing to Spellman in care of Town Meeting Association, Box 1775, Sun City.

# Age restriction project brings 'landslide' — TMA

A "landslide response" by property owners has been reported by the Town Meeting Association on its project to implement age restrictions in Sun City.

Jack Spellman, chairman of the association's deed restriction committee, said petitions to amend the declaration of restrictions have been prepared affecting 2,000 Sun City lots and more are being prepared daily.

Town Meeting officials announced the procedure for amending deed restrictions to include age limitations for residents at a June 27 meeting. It was reported then that such amendments for 48 Sun City homes had been filed with the county recorder.

"THE PHONE has been ringing off the wall ever since," said Nat Jampel, TMA publicity director.

Spellman said the nature of some of the inquiries his committee is receiving prompted him to offer the following advice and explanation to interested property owners:

"At the time you took title to your Sun City property and received your title insurance policy, you were given a document titled 'declaration of restrictions.'

"THESE restrictions apply either to condominium groups of homes or single family groups of homes. The restrictions are not

written for individual properties."

Each declaration can cover as few as four lots or as many as 600, with the smaller numbers usually being condominium properties and the larger being single family properties, Spellman explained.

To have the declaration of restrictions amended, 51 per cent of lot owners covered by a declaration must approve.

SPELLMAN recommended as a first step the formation of a committee to obtain petition signatures for the home group and to act as liaison with Town Meeting.

"In the case of condominiums, there is a built-in committee in the form of the board of management, or the board can appoint a special committee," he said.

"In single family property areas, a committee can be formed by a small group of lot owners having identical declarations of restrictions."

THAT FACTOR is determined by matching the docket number and property description of the declaration with those of neighbors, he said.

The committee may contact the Town Meeting deed restrictions committee to obtain the petition, he added.

Spellman's committee can be contacted at 977-9480 or by writing to Box 1775, Sun City.