

Upon recordation, return to:
Alan R. Patterson III, Esquire
210 Grant Street, Suite 401
Pittsburgh, PA 15219

FIRST AMENDMENT

TO

DECLARATION

OF

5859 BEACON

A CONDOMINIUM

Pursuant to the provisions of the
Pennsylvania Uniform Condominium Act
68 Pa. C.S. Section 3101 *et. seq.*, as amended

Dated as of 29th, November, 2006



Allegheny County
Valerie McDonald Roberts
Recorder of Deeds
Pittsburgh, PA 15219

Instrument Number: 2006-39727

Recorded On: November 29, 2006 As-Deed Agreement

Parties: S & W INVEST PROPERTIES L L C

To FIVE 5859 BEACON

of Pages: 20

Comment:

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Deed Agreement	75.00
Pages > 4	15
Names > 4	0
Total:	75.00

Valerie McDonald Roberts, Manager		BLOCK AND LOT NUMBER	
Date: 11/29/2006	Int. By:	DECLARATION	
		RN	

I hereby certify that the within and foregoing was recorded in the Recorder's Office in Allegheny County, PA

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ALAN R PATTERSON 3RD ESQ
210 GRANT ST STE 401
PITTSBURGH PA 15219



Valerie McDonald-Roberts Recorder of Deeds

**FIRST AMENDMENT TO
DECLARATION
OF
5859 BEACON

A CONDOMINIUM

AMENDMENT I**

This Amendment made this 29th day of November, 2006, is made by
S & W Investment Properties, LLC, Declarant of 5859 Beacon:

Pursuant to the Declaration of Condominium of 5859 Beacon executed on October 11, 2005 and recorded on October 14, 2005 in the Recorder of Deeds for Allegheny County, Pennsylvania, in Deed Book Volume 12626, Page 477 ("Declaration"), certain real estate described in Exhibit "A" the Declaration was submitted to the Provisions of the Pennsylvania Uniform Condominium Act, 68 Pa. C. S. § 3101 *et seq.* ("Act") and created a condominium know as "5859 Beacon" ("Condominium").

Whereas, the Declarant, as defined in Section 1.1 of the Declaration deems it necessary to amend the Declaration.

Pursuant to provisions of Section 6.1 and 6.3 of the Declaration and of Section 3219 of the Act, the Declarant hereby amends the Declaration as follows:

1. Exhibit "B" of the Declaration, which is a list of all Units by their Identifying Numbers and the Percentage Interest is hereby amended and attached hereto as Exhibit "1".
2. Exhibit "C" of the Declaration, which are the Plats and Plans is hereby amended and attached hereto as Exhibit "2".
3. Article II, Section 2.5 Vertical Boundaries sub-paragraph (a) (i) is amended to be, "For exterior walls, the boundary will be the vertical plane of the Unit side surface of the exterior metal studs used to attach the Unit drywall material and the Unit side surface of the window frames and door frames within the perimeters of the exterior metal stud frame walls, and any glass including the interior and exterior surfaces thereof in any windows within the Unit;"
4. Article II, Section 2.5 Vertical Boundaries sub-paragraph (a)(iii) is amended to be, "For corridor walls which divide the Unit from the adjacent corridor, the Unit side surface of the metal studs used to attach the Unit drywall, and the Unit side surface of the door and door frame providing access to the Unit from the adjacent corridor, and the door itself, including the interior and exterior surfaces thereof; and"
5. Article III, Section 3.3 Material Improvements, is amended to be, "Any construction, maintenance, repair or replacement which might affect the structural integrity or appearance of the Building from the interior or the exterior or which would affect any other Unit or Common Elements or any mechanical, plumbing or electrical system (a "Material Improvement") shall

require written approval of the Association as to materials and design. Further, any such undertaking which is inconsistent with the architectural design of the Condominium or Building is prohibited. Each Unit Owner shall be required to repair or replace, at such Unit Owner's sole expense, any portion of his Unit which, if not repaired and replaced, would adversely affect the structural integrity or appearance of the Building or Common Elements or adversely affect another Unit in any manner. If a penetration of any part of the dry wall or similar wall material results in damage to any part of an electrical system or in damage of any other nature or adversely affects the Building's fire rating, it will be the responsibility of the Unit Owner to promptly correct same and to pay any costs caused thereby or related thereto. If a penetration of any part of the dry wall or similar material results in an interference with the ability of the Association or its agent to have access to the Common Elements behind the drywall, it shall be the responsibility of the Unit Owner to promptly remove the interference. If any Unit Owner fails to comply with any of the requirements of the preceding sentences, the Association may in its sole discretion make such repair or replacement and assess the expense thereof against such Unit Owner as a Special Assessment."

6. Article III, Section 3.5 Decorating and Maintenance of Units is amended to be, "Each Unit Owner shall furnish and be responsible for, at his own expense, all of the decorating within his or her own Unit (after initial installation by Declarant, if any), including painting, wall papering, washing, cleaning paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Subject to any Rules and Regulations pertaining thereto, each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the Unit in good condition at the Unit Owner's sole expense. No work will be carried out by any Unit Owner which could affect any other Unit Owner or the Common Elements except in accordance with this **Article III**. The interior surfaces of all windows forming part of the perimeter wall of a Unit shall be cleaned or washed at the expense of each respective Unit Owner. The use of and the covering of the interior surfaces of the glass of all doors and windows, whether by draperies, shades or other items visible on the exterior of the Building or visible from the outdoors, shall be subject to the reasonable control of the Association as set forth in **Section 7.2**. Decorating of the Common Elements, exclusive of the Limited Common Elements, shall be furnished by the Association as part of the General Common Expenses. Also see **Section 7.2** hereof as to Balconies and Decks."
7. Article III, Section 3.6 Maintenance of Equipment, Fixtures, etc. is amended to be, "To the extent that equipment, facilities and fixtures within the Unit or Units shall be connected to equipment, facilities or fixtures affecting or serving other Units or the Common Elements, then the use thereof by the individual Unit Owners shall be subject to the control of the Association. The authorized representatives of the Executive Board, or of the manager or Managing Agent for the Building, shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repairs, or replacements of or to the Property or any equipment, facilities or fixtures affecting or serving other Units or any other portion of the Condominium Property.

Maintenance, repairs and replacements of any lines or facilities for the bringing of water, electricity, communication services and other utilities to the Building and to any lines or facilities serving more than one Unit or a Unit and Common Elements, shall be furnished as a

part of the Common Expenses. All such lines and facilities within the Unit or serving only a Unit, by way of illustration and not limitation, furnaces servicing a Unit (which excludes furnaces servicing common areas), water closets, air handling units servicing the Units, condensing units servicing the Units located on the roof, and service lines leading from a meter to the Unit or from the Unit to a line serving more than the Unit or the Unit and Common Elements, shall be a Unit Owner expense.”

8. Article III, Section 3.12 Designation of Reserved Common Elements is amended to be, “Reserved Common Elements are those parts of the Common Elements which the Executive Board may designate from time to time for use by less than all of the Unit Owners or by non-owners of any Unit for conditions for use as may be established by the Executive Board.”
9. Article V, Section 5.7 Maintenance Easements sub-paragraph (d) is amended to be, “Wherever in this Declaration and the Plats and Plans a boundary of a Unit is described as being the Unit-side surface (the Unit side surface will include both the interior and the exterior side surface of any glass surfaces thereof in any windows within the Unit) of a designated portion of the Condominium Property, or the plane formed thereby, an easement exists in favor of the Unit Owner, for the purposes of decorating such surfaces and affixing thereto and removing therefrom flooring and floor coverings, wall board, paint, wallpaper, other decorative material, pictures, mirrors, fixtures, wall systems and decorative articles, all at the sole cost, expense and liability of the Unit Owner of such Unit and subject to such Rules and Regulations as the Executive Board may adopt from time to time. The Unit Owners shall be liable to the Association for the cost of repair or restoration of any Common Elements damaged by the exercise of the easement, except to the extent that such damage is caused by a fire or a hazard for which the Association is insured or is required to be insured. The Association, acting on behalf of all Unit Owners, shall at all times while this Declaration is in effect retain the right and duty to maintain, repair, improve and/or replace the portions of the Condominium Property of which said surfaces are a part, notwithstanding the fact that such maintenance, repair, improvement or replacement may temporarily adversely affect the Unit Owner’s aforesaid easement and right to use the Unit-side surface of such portion of the Condominium Property.
10. Article V, Section 5.8 Parking Easement is amended to be, “Pursuant to the Parking Easement, the Declarant has agreed to be solely responsible for, inter alia: (i) ice and snow removal, (ii) maintenance of pavement and landscaping and normal wear and tear and (iii) replacement of pavement in the Parking Easement area. The Association, upon taking over control of the Property, will assume all of the Declarant’s benefits, obligations and liabilities under the Parking Easement arising and accruing after the date of recording of this Declaration; provided, however, that Declarant shall retain any benefits that it requires in order to complete construction of the Condominium or exercise its rights under the Declaration. Once the Association controls the Property and the Declarant has substantially completed construction of the Condominium, the Declarant will no longer be liable under **Section 5.8.**”
11. Article VI, Section 6.2 Rights of Secured Lenders is amended to be, “Notwithstanding the

foregoing, subject to the limitations imposed by Section 3221 of the Act and Section 803-08N of the Federal National Mortgage Association (FNMA) requirements and any requirements imposed by the Federal Home Loan Mortgage Corporation (FHLMC), any amendments to or of the Declaration relating to:

- (a) terminating or abandoning the Condominium (except for termination or abandonment through a taking by eminent domain);
- (b) abandoning, encumbering, selling or transferring the Common Elements, except as to reconfiguring of Units;
- (c) partitioning, subdividing, or combining any Unit or the Common Elements (except for the relocation boundaries between Units, and except by the Declarant upon the initial Unit sales or as permitted by Sections 7.2(l) and (m) hereof);
- (d) changing the percentage interests of any Unit Owners (except to the extent square foot area of Units changes as a result of the relocation of boundaries between Units); or
- (e) the use of hazard proceeds for losses to any part of the condominium or its property for purposes other than restoration repair;

shall require approval of the Unit Owners having 67% of the votes in the Association and prior written approval of two-thirds (2/3) of all Permitted Mortgage Holders, and further the prior written consent of any Permitted Mortgage Holder with a lien upon any Unit directly affected by (c), (d) or (e) above.

Other amendments relating to: voting, assessments, liens, reserves, insurance, use of Common Elements, maintenance responsibilities, Unit boundaries, Common Element interest, leasing and restrictions on alienation, or Special Declarant's rights shall require approval of the Unit Owners having 67% of the votes in the Association, and of the Declarant so long as it is the owner of a Unit or Units. Any amendment to Section 6.2 hereof shall require the consent of all of the then Permitted Mortgage Holders.

12. Article VII, Section 7.2 Use and Occupancy of Units and Common Elements sub-paragraph (e) is amended to be, "No awning or screen which is visible from the outdoors may be placed, parked, stored or maintained within or on any Balcony or Deck, without the prior written approval of the Executive Board. Subject to such Rules and Regulations as may be promulgated from time to time by the Executive Board and notwithstanding anything to the contrary contained in Section 7.2(d) above, outdoor furniture and potted plants may be placed or maintained within or on any Balcony or Deck for personal use (but not for storage). Unit Owners may not modify any landscaping initially installed by the Declarant in or on any Deck or balcony without the prior written approval of the Executive Board;

13. Article VII, Section 7.2 Use and Occupancy of Units and Common Elements sub-paragraph (p) is amended to be, "No Unit Owner shall keep or harbor any animals, other than assist animals, on the Condominium Property without the written consent of the Executive Board, except for: (a) tropical fish, (b) a trained leader dog, or assist animal, for a blind or handicapped resident of a Unit, (c) not more than two (2) pets, which may include cats, dogs or caged birds, which combined may not weigh more than a total of one hundred (100) pounds. No animal harbored by a Unit owner may be considered an aggressive animal. Such consent, if given, may be upon such conditions as the Association may prescribe. No pet shall be maintained or harbored within a Unit so as to create a nuisance to any other Unit Owner. A determination by the Executive Board that a pet creates a nuisance to any other Unit Owner shall be conclusive and binding upon all parties. Upon such a determination, said pet must be immediately removed from the premises. No animals permitted under this Section 7.2(p) may be kept for commercial or breeding purposes. All dogs must be registered with the Association and licensed by the appropriate governmental authorities. It shall be the duty of a Unit Owner to supply the Executive Board on an annual basis with a Certificate of Vaccination from a qualified veterinarian for each dog or cat owned by the Unit Owner as permitted hereunder, certifying that such animal has had administered to it the inoculations which the Executive Board, in its sole discretion, deems necessary, including, by way of example, vaccinations to prevent rabies and distemper. In the event such pet is not so vaccinated, the Unit Owner shall indemnify and hold the Association harmless from any and all liability or damage to persons or property arising as a result of said failure to vaccinate. No animal will be permitted outside the Unit, a Balcony or a fully enclosed Deck, owned by the owner thereof except on a leash or in a cage, provided, however, that no animal shall be left unattended; and, in any such instance, such owner shall be responsible for cleaning up after such animal, including on any Deck or on any Balcony. No other animals are permitted in the Units or on the Condominium Property;"
14. Article VIII, Section 8.1 Permitted Mortgages is amended to be, "A Unit Owner other than the Declarant or the Executive Board may not voluntarily encumber or subject his, her or its Unit to any lien, other than the lien of a Permitted Mortgage. Whether or not they expressly so state, all such Permitted Mortgages and the obligations secured thereby shall be deemed to provide, generally, that the Permitted Mortgage, and the rights and obligations of the parties thereto, shall be subject to the terms and conditions of the Act and this Declaration and shall be deemed to provide specifically, but without limitation, that the Permitted Mortgagee shall have no right (a) to participate in the adjustment of losses with insurers or in the decision as to whether or not or how to repair or restore damage to or destruction of the Property, or (b) to accelerate the mortgage debt or to have any other remedies by virtue of waste or alleged waste or other conditions occurring anywhere on the Property other than within the affected Unit, and the obligation secured shall be prepayable, without penalty, upon the happening of any termination of the Condominium or determination not to restore or replace the affected Unit. No Unit Owner shall deliver any Permitted Mortgage, or any obligation to be secured thereby, unless it has first notified the Executive Board of the name and address of the proposed Permitted Mortgagee and of the amount of the debt proposed to be so secured. When such a Permitted Mortgage is delivered to the Permitted Mortgagee, the Unit Owner shall simultaneously provide executed or conformed copies to the Executive Board. Upon receipt of such copy of a Permitted Mortgage, the Secretary of the Executive Board shall instruct the

insurer of the Property to add the name of the Permitted Mortgagee to the mortgagee loss payable provision of the hazard insurance policy covering the Property and to provide such Permitted Mortgagee with a Certificate of Insurance showing that the Permitted Mortgagee's name has been so added. The lien of any purported mortgage which does not comply with all the requirements of this Article VIII shall not attach to or affect the Property or any part thereof or interest therein and shall be of no force and effect as and to the extent that it purports to relate thereto."

15. Article VIII, Section 8.2 Rights of Permitted Mortgage Holders-Reports and Notices subparagraph (e) is amended to be, "Notice of the decision of the Unit Owners;"
16. Article VIII, Section 8.2 Rights of Permitted Mortgage Holders-Reports and Notices subparagraph (e) is amended to be, "Notice of substantial damage to or destruction of any Unit, the repair of which would cost in excess of \$5,000.00, or any part of the Common Elements, the repair of which would cost in excess of \$100,000.00;"
17. Article IX, LEASING is amended to be, "A Unit Owner may lease his Unit (but not less than his entire Unit) at any time and from time to time provided that (except for a lease made by (i) Declarant or (ii) a Permitted Mortgagee which is either in possession or is a purchaser at judicial sale): (1) no Unit may be leased for transient or hotel purposes; (2) no Unit may be leased for an initial term of less than twelve (12) months without the consent of the Executive Board ; (3) no Unit may be leased without a written lease; (4) a copy of such lease shall be furnished to the Executive Board within ten (10) days after execution thereof; and (5) the rights of any lessee of the Unit shall be subject to, and each such lessee shall be bound by, the covenants, conditions and restrictions set forth in the Declaration, Bylaws and Rules and Regulations, and a default thereunder shall constitute a default under the lease or sublease; provided, however, that the foregoing shall not impose any direct liability on any lessee of a Unit to pay any Common Expense assessments on behalf of the Owner of that Unit.
18. Article X, Section 10.2 Subordination of Certain Charges is amended to be, "Any fees, charges, late charges, fines and interest which may be levied by the Executive Board pursuant to Sections 3302(a)(10), (11) and (12) of the Act and that have not been reduced to liens against a Unit at the time of recordation of a posted mortgage, shall be subordinate to the lien of a Permitted Mortgage on a Unit."
19. Article X, Section 10.3 Surplus is amended to be, "Any amounts accumulated from assessments for and income from the operation of the Common Elements to which such General Common Expenses pertain in excess of the amount required for actual General Common Expenses shall be held by the Association or its designated representative as reserves for future Expenses.
20. Article X, Section 10.16 Reserve Funds is amended to be, "The Association may establish an adequate reserve fund for maintenance, repair and replacement of those Common Elements and Limited Common Elements which are anticipated to require replacement, repair or maintenance on a periodic basis. A reserve may also be established for maintenance required by the Maintenance Manual. Reserve funds shall be funded by monthly payments as a part of

Common Expenses, as provided in the Bylaws.”

21. Article XVI, Section 16.6 Defense of Claims, is amended to be, “Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit Owners and such complaints shall be defended by the Association. The Association members and officers, Executive Board members shall have no right to participate in such defense other than through that Association, unless joined in such action by the Association.”

22. Article XVII, Section 17.2 Required Provisions sub-paragraph (c) is amended to be, “Exclusive authority to adjust losses under policies hereafter in force on the Condominium Property shall be vested in the Association or its authorized representative. Prior to the adjustment of any such loss, the Executive Board shall decide whether, if the Association uses a public adjuster in connection herewith, the proceeds of any applicable insurance policy on the Condominium Property are likely to be sufficiently increased through the efforts of such adjuster to warrant the additional expense of retaining such an adjuster. If such decision shall be in favor of using a public adjuster, the Association shall retain a public adjuster, licensed as such by the Commonwealth of Pennsylvania, which adjuster shall act solely in the capacity of advisor to the Association or the Association’s authorized representative;”

IN WITNESS WHEREOF, S & W Investment Properties, LLC, the Declarant, has executed this 1st Amendment the day and year first written above.



Witness

Declarant:

S & W Investment Properties, LLC



Charles D. Staley, Sole Member



Allegheny County
Valerie McDonald Roberts
Recorder of Deeds
Pittsburgh, PA 15219

Instrument Number: 2007-40699

Recorded On: December 27, 2007

As-Deed Agreement

Parties: FIVE 5859 BEACON

To FIVE 5859 BEACON

of Pages: 26

Comment: 2ND AMEND TO DEC CONDO

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Deed Agreement 87.00
Pages > 4 21
Names > 4 0
Total: 87.00

Michael J. Suley, Manager - BLOCK AND LOT NUMBER

<i>Michael J. Suley</i>		DECLARATION
Date: 1/1/08	Int. By: KS	

I hereby certify that the within and foregoing was recorded in the Recorder's Office in Allegheny County, PA

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