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Fee Amt: \$32.00 Page 1 of 7
Workflow# 1970922
Buncombe County, NC
Otto W. DeBruhl, Register of Deeds
BK 4134 pg 1467-1473

PREPARED BY AND RETURN TO: Thomas C. Grella
(#31)

THIS AMENDMENT TO DECLARATION OF CONDOMINIUM ("Amendment") is made as of this 7th day of November, 2005, by 21 Battery Park, LLC ("Declarant") and 21 Battery Park Condominium Association, Inc. ("Association"), all pursuant to and under the North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes.

WITNESSETH:

WHEREAS, 21 Battery Park, LLC entered into and recorded a certain Declaration of Condominium for 21 Battery Park Condominium (the "Condominium"), dated January 14, 2005 and recorded in Book 3899, at Page 476, Buncombe County Registry ("Declaration"); and

WHEREAS, the Condominium plans were recorded in Condominium File Number 416, Buncombe County Registry designating a Unit 7-G and Unit 7-H thereon; and

WHEREAS, Declarant desires to amend the Declaration and Plans such that Unit 7-G and Unit 7-H are consolidated into a single Unit 7 - J; and

WHEREAS, the Declarant has the right, pursuant to the terms of the Declaration, and the terms of the Act to so amend without joinder of other owners of Units within the Condominium.

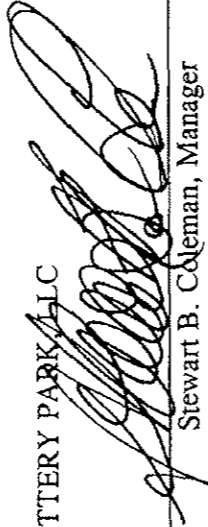
NOW THEREFORE, in consideration of the mutual obligations set forth herein, the parties hereto agree as follows:

1. Each and every term and provision of the Declaration, including each and every Exhibit thereto, is incorporated herein by reference, and is effective except as modified and amended by the terms and provisions of this Amendment.
2. The Declaration and any exhibits thereto are amended such that any reference to eight units on the top floor containing residential units within the Condominium building is amended to indicate that there are only seven units on such floor.
3. Exhibit E to the Declaration is deleted in its entirety and replaced with Exhibit E-1 to this Amendment.

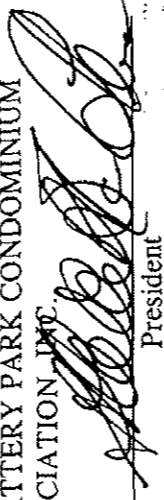
- 4. Page A1.7 of the original Plans as recorded in Condominium File 416 is hereby replaced by that one page of Plans recorded in Condominium File ~~504~~ Buncombe County Registry. Exhibit D-1 attached hereto is incorporated herein by reference with respect to the plans attached to this Amendment, and is in addition to (and does not replace (except as amended hereby) original Exhibit D to the Declaration).
- 5. Association is executing this Amendment for the purpose of giving its approval of the Amendment, which is automatic pursuant to Section 8.1 (f) (3) of the Declaration. Declarant is the owner of both of original Unit 7-G and 7-H.
- 6. In accordance with NCGS 47C-2-108, Declarant is the owner of both of original unit 7-G and 7-H and as such, does hereby designate that all of the individual limited common elements designated to Unit 7-G and 7-H as shown on the original plans is hereby designated as an individual limited common element of Unit 7-J, and is shown on the Plans recorded in Condominium File ~~504~~, Buncombe County Registry.

IN WITNESS WHEREOF, the Declarant (both individually and as Declarant under the Declaration) and Association have caused due execution of this Amendment, this the day and year first above written.

21 BATTERY PARK LLC

By:  (SEAL)
Stewart B. Coleman, Manager

21 BATTERY PARK CONDOMINIUM ASSOCIATION, INC.

By:  President

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of said County and State, do hereby certify that Stewart B. Coleman, as sole Manager of 21 Battery Park, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes expressed therein on behalf of said limited liability company.

Witness my hand and official seal, this 24 day of November, 2005.


Notary Public

My Commission Expires: 3-17-07



STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, a Notary Public of the County and State aforesaid, certify that Stewart B. Coleman personally came before me this day and acknowledged that she is President of 21 Battery Park Condominium Association, Inc., a North Carolina Corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as President. Witness my hand and official stamp or seal, this 7th day of November, 2005.

My commission expires: 3/17/07

Notary Public



Bank of America, N.A. being the Beneficiary under that certain Deed of Trust from Declarant to PRLAP, INC. Trustee, recorded in Book 3482, at Page 656, of the Buncombe County Public Registry (the "Deed of Trust"), conveying the property described hereinabove, hereby: (a) consents to the recordation of this Amendment to Declaration of Condominium ("Amendment") and the imposition of the provisions of the North Carolina Condominium Act to the real property described in said Deed of Trust (the "Property"); and (b) subordinates the lien and operation of the Deed of Trust to this Amendment and the provisions contained herein. In the event of foreclosure of the Deed of Trust, or the transfer of any portion of the Property in lieu of foreclosure, Beneficiary and Trustee agree that the purchaser at any such foreclosure or the transferee under any such deed in lieu of foreclosure shall take title to the Property together with and subject to all of the terms of this Amendment. The execution of this Consent of Mortgage by the Beneficiary shall not be deemed or construed to have the effect of creating between the Beneficiary and Declarant the relationship of partnership or of joint venture, nor shall it be deemed to impose upon the Beneficiary any of the liabilities, duties or obligations of the Declarant under this Declaration. Beneficiary executes this Consent of Mortgage solely for the purposes set forth above. The Trustee also joins in and executes this Consent of Mortgage at the request of Beneficiary, and for the purposes set forth above, and in the ordinary course of business.

TRUSTEE:

PRLAP, INC.

By: Kimberly A. Goppert
 Vice President



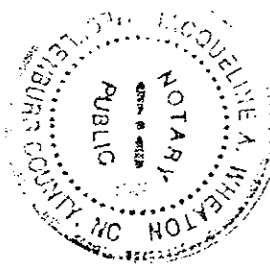
BENEFICIARY:

BANK OF AMERICA, N.A.

By: Kimberly A. Goppert
 Vice President



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State of North Carolina
County of Mecklenburg

I, Jacqueline A. Wheaton Notary Public, certify that Kimberly R. T. Prost personally came before me this day and acknowledged that he/she is Vice Vice President of Bank of America, N.A., a national banking association, and that he/she as Vice Vice President being authorized to do so, executed the foregoing on behalf of bank of America, N.A..

Witness my hand and official seal, this the 4th day of November, 2005.

My commission expires: 9/12/2009
Jacqueline A. Wheaton
Notary Public

State of North Carolina
County of Mecklenburg

I, Jacqueline A. Wheaton Notary Public, certify that Kimberly R. T. Prost personally came before me this day and acknowledged that he/she is Vice Vice President of PRLAP, Inc., Trustee, a corporation, and that he/she as Vice Vice President being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 4th day of November, 2005.

My commission expires: 9/12/2009
Jacqueline A. Wheaton
Notary Public

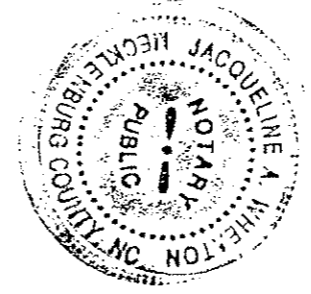


EXHIBIT AD-1

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

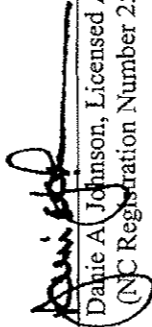
CERTIFICATE OF ARCHITECT

Danie A. Johnson, being duly sworn, deposes and says:

That he is an architect licensed under the provisions of Chapter 83 of the General Statutes of North Carolina and that as such he prepared the Plans for 21 BATTERY PARK CONDOMINIUM, for 21 Battery Park, LLC; a North Carolina limited liability company; that said Plans as attached hereto and made a part hereof and as attached to an Amendment to Declaration of Condominium by the said 21 Battery Park, LLC, and the 21 Battery Park Condominium Association, Inc. dated the 7th day of November, 2005, and filed in the Office of the Register of Deeds for Buncombe County, North Carolina, simultaneously with such Declaration fully and accurately depict the layout, location, ceiling and floor elevations, unit numbers and dimensions of the units as built and as located on the seventh floor residential unit floor of the building on the property described in said Declaration, and that all structural components and mechanical systems of the Building are substantially complete in accordance with the plans.

This Certificate is given under and in accordance and compliance with Chapter 47C-2-109 (b) (6) and 47C-2-101(b) of the General Statutes of North Carolina of the General Statutes of North Carolina, and the plans contain the architectural information required by NCGS 47C-2-109.

This the 7th day of November, 2005.



Danie A. Johnson, Licensed Architect
(NC Registration Number 2503)

Sworn to and subscribed before me, this 7th day of November, 2005.

Notary Public: 

My commission expires: 12/5/2005

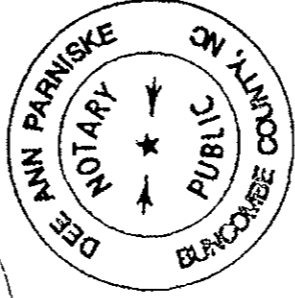


Exhibit "E-1" to Declaration of 21 Battery Park Condominium
 Common Element Interest Percentage of Undivided Interest
 And Common Expense and Vote in Association and Subassociations

<u>Unit #</u>	<u>Size</u>	<u>Common Element Int. and Assoc. Voting %</u>	<u>Residential Percentage</u>	<u>Commercial Percentage</u>	<u>Office Percentage</u>
101	6610	6.96%	0.00%	0.00%	29.92%
201	15483	16.30%	0.00%	0.00%	70.08%
3A	2025	2.13%	2.78%	0.00%	0.00%
3B	1900	2.00%	2.61%	0.00%	0.00%
3C	1980	2.08%	2.72%	0.00%	0.00%
3D	1980	2.08%	2.72%	0.00%	0.00%
3E	2280	2.40%	3.13%	0.00%	0.00%
3F	1825	1.92%	2.50%	0.00%	0.00%
3G	1150	1.21%	1.58%	0.00%	0.00%
3H	1150	1.21%	1.58%	0.00%	0.00%
4A	2025	2.13%	2.78%	0.00%	0.00%
4B	1900	2.00%	2.61%	0.00%	0.00%
4C	1980	2.08%	2.72%	0.00%	0.00%
4D	1980	2.08%	2.72%	0.00%	0.00%
4E	2280	2.40%	3.13%	0.00%	0.00%
4F	1825	1.92%	2.50%	0.00%	0.00%
4G	1330	1.40%	1.82%	0.00%	0.00%
4H	1330	1.40%	1.82%	0.00%	0.00%
5A	2025	2.13%	2.78%	0.00%	0.00%
5B	1900	2.00%	2.61%	0.00%	0.00%
5C	1980	2.08%	2.72%	0.00%	0.00%
5D	1980	2.08%	2.72%	0.00%	0.00%
5E	2280	2.40%	3.13%	0.00%	0.00%
5F	1825	1.92%	2.50%	0.00%	0.00%
5G	1330	1.40%	1.82%	0.00%	0.00%
5H	1330	1.40%	1.82%	0.00%	0.00%
6A	2025	2.13%	2.78%	0.00%	0.00%
6B	1900	2.00%	2.61%	0.00%	0.00%
6C	1980	2.08%	2.72%	0.00%	0.00%
6D	1980	2.08%	2.72%	0.00%	0.00%
6E	2280	2.40%	3.13%	0.00%	0.00%
6F	1825	1.92%	2.50%	0.00%	0.00%
6G	1330	1.40%	1.82%	0.00%	0.00%
6H	1330	1.40%	1.82%	0.00%	0.00%
7A	2025	2.13%	2.78%	0.00%	0.00%
7B	1900	2.00%	2.61%	0.00%	0.00%
7C	1980	2.08%	2.72%	0.00%	0.00%
7D	1980	2.08%	2.72%	0.00%	0.00%
7E	2280	2.40%	3.13%	0.00%	0.00%
7F	1825	1.92%	2.50%	0.00%	0.00%
7J	2660	2.80%	3.64%	0.00%	0.00%
Total	94983	100.00%	100.00%	0.00%	100.00%
Residential	72890				

Office 22093

Note - Common Element Interest Percentages relate to Undivided Interests and Common Expenses and Votes in the Association

Note - Residential, Office and Commercial Percentages relate to Common Expenses and Votes in the respective Subassociations

Note - Shared Limited Common Element percentages shall be determined based upon the square feet of each sharing Unit (as set forth above) as it relates to all sharing Units.