

Division of Corporations

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BASIC AMENDMENT  
3801 PGA EQUITY CORPORATION

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FLORIDA DEPARTMENT OF STATE  
Jim Smith  
Secretary of State

December 5, 2002

3801 PGA EQUITY CORPORATION  
GARDENS CORPORATE CENTER  
3801 PGA BOULEVARD, SUITE 600  
WEST PALM BEACH, FL 33410US

SUBJECT: 3801 PGA EQUITY CORPORATION  
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**THIRD AMENDMENT  
TO  
ARTICLES OF INCORPORATION OF  
3801 PGA EQUITY CORPORATION**

Pursuant to the provisions of Sections 607.1003 and 607.1006 of the Florida Business Corporation Act (1993), the undersigned corporation adopts the following Third Amendment to its Articles of Incorporation:

1. The name of the corporation is 3801 PGA Equity Corporation (the "Corporation").
2. The following third amendment of the Articles of Incorporation was adopted by the sole shareholder and all of the Directors of the Corporation (the number of votes cast being sufficient for approval) by the Unanimous Written Consent of Directors and Sole Shareholder of the Corporation in Lieu of a Special Joint Meeting dated as of December 4, 2002 in the manner prescribed by Sections 607.1003 and 607.1006 of the Florida Business Corporation Act:
  - a. ARTICLE III is hereby amended to read in its entirety as follows:

**ARTICLE III: PURPOSE**

The Corporation's business and purpose shall consist solely of the following:

(i) To acquire and hold title to a general partnership interest in and act as the sole general partner of 3801 PGA Equity Investors, Ltd., a Florida limited partnership (the "GP Partnership"), which is the managing general partner of 3801 PGA LP Holding, Ltd., a Florida limited partnership (the "Holding Partnership"), which is a limited partner of 3801 PGA Investors, Ltd., a Florida limited partnership (the "Acquisition Partnership"), which Acquisition Partnership is engaged solely in the ownership, operation and management of the real estate project known as Gardens Corporate Center located at 3801 PGA Boulevard, Palm Beach Gardens, Florida (the "Property"); and

(ii) To engage in such other lawful activities permitted to corporations by the applicable laws and statutes for such entities of the State of Florida as are incidental, necessary or appropriate to the foregoing."

- b. ARTICLES XI and XII are hereby amended in their entirety to read as follows:

**"ARTICLE XI: INDEPENDENT DIRECTOR.**

- (a) At all times at which the directors of the Corporation shall take,

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or shall be required to take, any action in such capacity and until such time as that certain \$7,932,187.91 loan ("Mezzanine Loan") to Holding Partnership by GMAC Commercial Mortgage Corporation ("Lender") for the purpose of making a capital contribution to Acquisition Partnership for use to prepay, in part, mortgage indebtedness encumbering the Property, has been paid in full, there shall be at least one Independent Director. An "Independent Director" shall mean a director of the Corporation who is not at the time of initial appointment, or at any time while serving as a director of the Corporation, and has not been at any time during the preceding five (5) years: (a) a stockholder, director (with the exception of serving as the Independent Director of the Corporation or as an independent director in any other corporation which is an Affiliate with the Corporation), officer, employee, partner, attorney or counsel of the Corporation, the GP Partnership, the Holding Partnership, the Acquisition Partnership or any Affiliate of any of these entities or otherwise a direct or indirect legal or beneficial owner in such entity or any of its Affiliates (with the exception of serving as the Independent Director of the Corporation); (b) a customer, supplier, creditor, contractor or other person who derives any of its purchases or revenues from its activities with the Corporation, the GP Partnership, the Holding Partnership, the Acquisition Partnership or any of their Affiliates; (c) a Person controlling or under common control with any such stockholder, director, officer, partner, customer, supplier, creditor or contractor or other Person; or (d) a member of the immediate family of any such stockholder, director, officer, employee, partner, customer, supplier, creditor or contractor or other person. A director shall not be in violation of any of the criteria set forth in this definition simply by receiving compensation for serving as Independent Director for the Corporation for the benefit of the GP Partnership, the Holding Partnership or the Acquisition Partnership.

As used herein, the term "Affiliate" shall mean any person or entity other than the Corporation (i) which owns beneficially, directly or indirectly, any outstanding shares of the Corporation's stock, any partnership interest in the GP Partnership, any partnership interest in the Holding Partnership or any partnership interest in the Acquisition Partnership, or (ii) which controls or is under common control with the Corporation, the GP Partnership, the Holding Partnership or the Acquisition Partnership. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise.

(b) With the consent of the stockholders of the Corporation, which consent the stockholders believe to be in the best interest of the stockholders and the Corporation, no Independent Director shall, with regard to any action to be taken under or in connection with this Article, owe a fiduciary duty or other obligation to the stockholders nor to any successor stockholders (except as may specifically be required by the statutory law of any applicable jurisdiction), and every stockholder, including each successor stockholder, shall consent to the foregoing by virtue of such stockholder's purchase of shares of capital stock of the Corporation, no further act or deed of any stockholder being required to evidence

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such consent. Instead, such director's fiduciary duty and other obligations with regard to such action under or in connection with this Article shall be owed to the Corporation (including its creditors and the creditors of the GP Partnership, the Holding Partnership and the Acquisition Partnership). In addition, no Independent Director may be removed unless his or her successor has been elected.

(c) Notwithstanding any other provision of these Articles and any provision of law that otherwise so empowers the Corporation, the Corporation shall not, without the unanimous consent of the Board of Directors, including the Independent Director, do any of the following:

(i) engage in any business or activity other than those permitted hereby or cause or allow the GP Partnership or the Holding Partnership to engage in any business or activity other than as set forth in its respective GP Partnership Agreement and Holding Partnership Agreement;

(ii) do any act which would make it impossible for the Corporation, the GP Partnership or the Holding Partnership to carry on its respective business, except as otherwise provided in these Articles;

(iii) borrow money or incur any indebtedness or assume or guaranty any indebtedness of any other entity, other than normal trade accounts and lease obligations of the GP Partnership incurred in the ordinary course of business, or grant consensual liens on either the Corporation's property or the GP Partnership's property or the Holding Partnership's Property; provided, however, that the president, any vice-president or other officer of the Corporation is hereby authorized to secure the Mezzanine Loan acting through the GP Partnership for and on behalf of the Holding Partnership upon the terms and conditions set forth in that certain Mezzanine Loan Agreement between the Holding Partnership and Lender;

(iv) dissolve or liquidate, in whole or in part;

(v) cause or consent to the dissolution or liquidation, in whole or in part, of the GP Partnership or the Holding Partnership;

(vi) sell or lease or otherwise dispose of all or substantially all of the assets of the Corporation or cause the GP Partnership or the Holding Partnership to sell or lease or otherwise dispose of all or substantially all of the assets of the GP Partnership or the Holding Partnership except in a manner, if any, consistent with the requirements of the documents evidencing the Mezzanine Loan;

(vii) with respect to the Corporation, the GP Partnership or the Holding Partnership institute proceedings to be adjudicated bankrupt or

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insolvent, or consent to the institution or bankruptcy or insolvency proceedings against it, or file a petition seeking or consenting to reorganization or relief under any applicable federal or state law relating to bankruptcy, or seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Corporation, the GP Partnership or the Holding Partnership or all or a substantial part of property and assets of the Corporation, the GP Partnership or the Holding Partnership or make any general assignment for the benefit of creditors, or admit in writing its inability to pay its debts generally as they become due, or declare or effect a moratorium on debt or take corporate action in furtherance of any such action;

(viii) amend these Articles of Incorporation as it relates to the following provisions:

- (a) Article III: Purpose;
- (b) Article XI: Independent Director; and
- (c) Article XII: Separateness/Operation,

or approve an amendment to the GP Partnership's Amended and Restated Certificate with respect to Items 7, 8, 9, 10, 11, and 12, the GP Partnership's Partnership Agreement with respect to Sections: 6.10, 6.11, 6.12, 6.13 and 6.14, the Holding Partnership's Certificate of Limited Partnership, as amended with respect to Items 7,8,9,10,11,12 and 13, or the Holding Partnership Agreement with respect to Sections: 5.13, 5.15, 5.16, 5.17, 5.18, 5.19 and 5.20;

(ix) consolidate or merge with or into any other entity or convey or transfer or lease its property and assets substantially as an entirety to any entity;

(x) cause the GP Partnership or the Holding Partnership to consolidate or merge with or into any other entity or to convey or transfer or lease its Property and assets substantially as an entirety to any entity; or

(xi) withdraw as the general partner of the GP Partnership.

(xii) take any action which, under the terms of its certificate of incorporation, bylaws or any voting trust agreement with respect to any common stock, requires a vote of the board of directors unless at the time of such action there shall be at least one member of the board of directors who is an Independent Director.

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In addition to the foregoing, the Corporation shall not, without the written consent of the holder of the promissory note evidencing the Mezzanine Loan so long as it is outstanding, take any action set forth in items (i) through (vi) or (viii) through (xii) above.

**ARTICLE XII: SEPARATENESS/OPERATION MATTER.**

The Corporation shall:

(a) maintain books and records and bank accounts separate from those of any other person and cause each of the GP Partnership and the Holding Partnership to maintain books and records and bank accounts separate from those of any other person;

(b) maintain its assets in such a manner that it is not costly or difficult to segregate, identify or ascertain such assets;

(c) cause each of the GP Partnership and the Holding Partnership to maintain its assets in such a manner that it is not costly or difficult to segregate, identify or ascertain such GP Partnership's assets or such Holding Partnership's assets;

(d) hold regular Board of Director and stockholder meetings, as appropriate, to conduct the business of the Corporation, and observe all other corporate formalities;

(e) cause each of the GP Partnership and the Holding Partnership to hold regular partnership meetings as appropriate to conduct the business of the GP Partnership and the Holding Partnership and to observe all other GP Partnership and Holding Partnership formalities;

(f) hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;

(g) cause each of the GP Partnership and the Holding Partnership to hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;

(h) prepare separate tax returns and financial statements, or if part of a consolidated group, then it will be shown as a separate member of such group;

(i) cause each of the GP Partnership and the Holding Partnership to prepare separate tax returns and financial statements for itself or, if part of a consolidated group, then the GP Partnership and the Holding Partnership will be shown as a separate member of such group;

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(j) allocate and charge fairly and reasonably any common employee or overhead shared with affiliates;

(k) cause each of the GP Partnership and the Holding Partnership to allocate and charge fairly and reasonably any common employee or overhead shared with affiliates of the GP Partnership and the Holding Partnership;

(l) transact all business with affiliates on an arm's-length basis and pursuant to enforceable agreements;

(m) cause each of the GP Partnership and the Holding Partnership to transact all business with affiliates on an arm's-length basis and pursuant to enforceable agreements;

(n) conduct business in its own name, and use separate stationery, invoices and checks;

(o) cause each of the GP Partnership and the Holding Partnership to conduct business in its own name, and use separate stationery, invoices and checks;

(p) not commingle its assets or funds or those of the GP Partnership or the Holding Partnership with those of any other person;

(q) not assume, guarantee or pay the debts or obligations of any other person;

(r) not cause or allow the GP Partnership or the Holding Partnership to assume, guaranty or pay the debts or obligations of any other person;

(s) satisfy its own expenses and liabilities from its own funds and not pay expenses or liabilities of the Holding Partnership, Paramount Real Estate Services, Inc. ("Paramount"), 3801 PGA GP Holding, LLC ("GP Holding"), Acquisition Partnership, LB Florida PGA LLC ("LB"), the GP Partnership, Property Asset Management Inc. ("PAMI") or PAMI, LLC ("LLC");

(t) maintain correct and complete books and records in a consistent manner from year to year and the minutes of the meetings and other proceedings of its Partners;

(u) act and conduct business only through its duly authorized agents;

(v) not hold itself out to be a guarantor of or otherwise liable for the debts of another; and



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(w) maintain a commercially reasonable relationship, similar to that in an arm's-length transaction, with the Holding Partnership, Paramount, LP Holding, LB, the GP Partnership, the Acquisition Partnership, PAMI and LLC in all business dealings between or among them.

The Corporation shall not:

(a) fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation, or fail to remain qualified to do business and in good standing in each State in which the conduct of its business will so require;

(b) make any loans or advances to any third party, including, without limitation, any general partner, member, shareholder, principal or affiliate of the Partnership, or any general partner, principal or affiliate thereof;

(c) fail to file its own tax returns;

(d) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

(e) fail to maintain adequate capital for the normal obligations reasonable foreseeable in a business of its size and character and in light of its contemplated business operations; nor

(f) fail to pay its expenses and liabilities only out of its own funds."

3. Except as hereby amended, the Articles of Incorporation of the Corporation, as amended by the First Amendment and Second Amendment to Articles of Incorporation, shall remain the same.

3801 PGA EQUITY CORPORATION, a Florida corporation

By:   
Patrick J. DiSalvo, Vice President

Dated: December 5, 2002