

7290394
03/16/99 2:17 PM 84.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
OWNERS RESORTS & EXCHANGE
404 E 4500 S STE.A34
SLC, UT 84107
REC BY:R JORDAN DEPUTY - WI

By Laws
for
The Kimball Condominium
Owners Association

7290394

BK8258PG8522

**AMENDED AND RESTATED BYLAWS OF
THE KIMBALL CONDOMINIUM OWNERS ASSOCIATION**

WITNESSETH:

WHEREAS, at a duly called meeting of the Management Committee of The Kimball Condominiums Owners Association, a Utah non-profit corporation (the "Kimball"), held on November 15, 1994, at 11:30 a.m., at the offices of Snell & Wilmer, 111 East Broadway, Suite 900, Salt Lake City, Utah 84111, at which all members of the Management Committee were present, the Management Committee ("Board of Directors") voted unanimously to amend the Kimball's Bylaws by adopting the Amended and Restated Bylaws of the Kimball set forth below; and

WHEREAS, the Amended and Restated Bylaws of the Kimball set forth below shall supersede and replace in their entirety the Bylaws of the Kimball.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Article VIII of the current Bylaws of the Kimball, the Board of Directors of the Kimball hereby unanimously adopts the following Amended and Restated Bylaws of The Kimball Condominiums Owners Association, a Utah non-profit corporation:

ARTICLE I. OFFICES

§ I.1 Business Office.

The principal office of the corporation shall be located at any place either within or outside the State of Utah as designated in the Kimball's most current Annual Report filed with the Utah Division of Corporations and Commercial Code. The Kimball may have such other offices, either within or without the State of Utah, as the Board of Directors may designate or as the business of the Kimball may require from time to time.

§ I.2 Registered Office.

The registered office of the Kimball, required by Section 16-6-25.1 of the Utah Non-Profit Corporation and Cooperative Association Act (the "Act"), shall be located within Utah and may be, but need not be, identical with the principal office (if located within Utah). The address of the registered office may be changed from time to time.

ARTICLE II. MEMBERS

§ II.1 Members.

The Kimball shall have one class of Members, which shall consist of each "Owner" of a "Unit" in the Kimball Condominiums, as defined, and with and subject to the rights and

obligations provided, in the then-current Declaration of Condominium of the Kimball Condominiums, as amended from time to time, which, as of the date hereof, consists of the following instruments (collectively, the "Declaration"):

Instrument	Date	Recording Information
Amendment to the Second Amended Declaration	2/24/82	Recorded 3/5/92 Entry No. 3654014 Book 5347 Beginning at Page 1092
Second Amendment to the Second Amended Declaration	12/1/83	Recorded 12/5/83 Entry No. 3877150 Book 5512 Beginning at Page 1056
Third Amendment to the Second Amended Declaration	7/3/84	Recorded 8/31/84 Entry No. 3987819 Book 5586 Beginning at Page 2427
Fourth Amendment to the Second Amended Declaration	2/27/89	Recorded 3/14/89 Entry No. 4746199 Book 6110 Beginning at Page 355
Fifth Amendment to the Second Amended Declaration	5/27/94	Recorded 6/3/94 Entry No. 5840857 Book 6954 Beginning at Page 2004

In the event of any conflict or inconsistency between the terms and conditions of these Bylaws and the Declaration, the Declaration shall control. Unless otherwise used and defined herein, all terms are used herein as defined in the Declaration.

§ II.2 Place of Meeting.

All meetings of the Members shall be held in Salt Lake City, Utah, or at such other place within the State of Utah as shall be designated by the Board of Directors in the notice of such meeting.

§ II.3 Annual Meeting.

The Board of Directors may fix the date and time of the annual meeting of the Members, but if no such date and time is fixed by the Board of Directors, the meeting for any

calendar year shall be held on the third Saturday in September. At the annual meeting, the Members then entitled to vote shall elect by written ballot the Board of Directors and shall transact such other business as may properly be brought before the meeting.

§ II.4 Special Meetings.

Except as provided in the Kimball's Articles of Incorporation, special meetings of the Members for any purpose or purposes for which meetings may lawfully be called, may be called at any time for any purpose or purposes by a majority of the members of the Board of Directors, or by any person or committee expressly so authorized by a majority of the members of the Board of Directors, or by written demand signed by the owners of at least 30 percent (30%) of the total ownership interest in the common areas of the Kimball Condominiums. It shall be the duty of the Secretary to fix the date of the meeting to be held at such date and time as the Secretary may fix, not less than ten nor more than sixty days after the receipt of the request, and to give due notice thereof. If the Secretary shall neglect or refuse to fix the time and date of such meeting and give notice thereof, the person or persons calling the meeting may do so.

§ II.5 Notice of Meetings.

Written notice of the place, date and hour of every meeting of the Members, whether annual or special, shall be given not less than ten nor more than sixty days before the date of the meeting. Notice shall be provided by such method as shall be determined by the Board of Directors. Every notice of a special meeting shall state the purpose or purposes thereof.

§ II.6 Quorum, Manner of Acting and Adjournment.

The Members owning more than fifty percent (50%) of the aggregate of interests in the undivided ownership of the Common Areas and Facilities present in person or by proxy, at a meeting of the Members, shall constitute a quorum for the transaction of business except as otherwise provided by statute, by the Articles of Incorporation or by these Bylaws. The vote of a majority of the aggregate of interests in the undivided ownership of the Common Areas and Facilities owned by the Members shall decide any questions brought before such meeting, unless the question is one upon which, by express provision of the applicable statute, the Articles of Incorporation, these Bylaws or the Declaration, a different vote is required, in which case such express provision shall govern and control the decision of such question. As provided in the Declaration, if any Member is in breach of the Declaration, the Bylaws or the Kimball's rules and regulations, the Kimball may suspend the right of such Member to participate in any vote.

§ II.7 Organization.

At every meeting of the Members, the President, or in the case of vacancy in office or absence of the President, such person as may be designated by the Board of Directors, shall act as Chairman of such meeting, and the Secretary, or, in his absence, an assistant secretary, or in his absence of both the Secretary and the assistant secretaries, a person appointed by the Chairman of the Meeting shall act as Secretary.

§ II.8 Voting; Proxies. Each Member shall at every meeting of the Members be entitled such vote, in person or by proxy, as specified in the Declaration. All elections of Board of Directors members shall be by written ballot, unless waived by the Members present. The vote upon any other matter need not be by ballot. No proxy shall be voted after one year from its date, unless the proxy provides for a longer period. Every proxy shall be executed in writing by the Member or by his duly authorized attorney-in-fact and filed with the Secretary of the Kimball. A proxy, unless coupled with an interest, shall be revocable at will, notwithstanding any other agreement or any provisions in the proxy to the contrary, but the revocation of a proxy shall not be effective until notice thereof has been given to the Secretary of the Kimball. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy shall not be revoked by the death or incapacity of the matter unless, before the vote is counted or the authority is exercised, written notice of such death or incapacity is given to the Secretary of the Kimball.

ARTICLE III. Board of Directors

§ III.1 General Powers.

Unless the Articles of Incorporation or Declaration have dispensed with or limited the authority of the Board of Directors by describing who will perform some or all of the duties of a Board of Directors, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the Kimball shall be managed under the direction of, the Board of Directors.

§ III.2 Number, Tenure, and Qualification of Directors.

The authorized number of trustees comprising the Board of Directors, their respective terms of office, and their manner of election are as set forth in the Declaration. Each trustee shall hold office until removed or until his successor shall have been elected and qualified, or until there is a decrease in the number of trustees. Directors do not need to be residents of Utah.

§ III.3 Regular Meetings of the Board of Directors.

A regular meeting of the Board of Directors shall be held without notice other than this

Bylaw immediately after the annual meeting of the Members, at the registered office of the Kimball or such other time or place as shall be determined by the trustees. The Board of Directors may provide, by resolution, the time and place (which shall be within the county where the Kimball's principal office is located) for the holding of additional regular meetings without notice other than such resolution. If so permitted by § 3.7, any such regular meeting may be held by telephone.

§ III.4 Special Meetings of the Board of Directors.

Special meetings of the Board of Directors may be called by or at the request of the president or any two trustee(s). The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Utah, as the place for holding any special meeting of the Board of Directors called by them, or if permitted by § 3.7, such meeting may be held by telephone.

§ III.5 Notice of, and Waiver of Notice for, Special Director Meetings.

Unless the Articles of Incorporation provide for a longer or shorter period, notice of any special trustee meeting shall be given at least two days previously thereto either orally or in writing. If mailed, notice of any trustee meeting shall be deemed to be effective at the earlier of: (1) the date when received; (2) five days after deposited in the United States mail, addressed to the trustee's business office, with postage thereon prepaid; or (3) the date shown on the return receipt if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the trustee. Any trustee may waive notice of any meeting.

Except as provided in the next sentence, the waiver must be in writing, signed by the trustee entitled to the notice, and filed with the minutes or corporate records. The attendance of a trustee at a meeting shall constitute a waiver of notice of such meeting, except where a trustee attends a meeting for the express purpose of objecting to the transaction of any business and at the beginning of the meeting (or promptly upon his arrival), objects to holding the meeting or transacting business at the meeting, and does not thereafter vote for or assent to action taken at the meeting. Unless required by the Articles of Incorporation, neither the business to be transacted at, nor the purpose of, any special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

§ III.6 Director Quorum.

A majority of the number of trustees shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, unless the Articles of Incorporation require a greater number.

Any amendment to this quorum requirement is subject to the provisions of § 3.8 of this Article III.

§ III.7 Directors, Manner of Acting.

The act of the majority of the trustees present at a meeting at which a quorum is present when the vote is taken shall be the act of the Board of Directors unless the Articles of Incorporation require a greater percentage. Any amendment which changes the number of trustees needed to take action, is subject to the provisions of § 3.8 of this Article III.

Unless the Articles of Incorporation provide otherwise, any or all trustees may participate in a regular or special meeting by, or conduct the meeting through, the use of any means of communication by which all trustees participating may simultaneously hear each other during the meeting. A trustee participating in a meeting by this means is deemed to be present in person at the meeting.

A trustee who is present at a meeting of the Board of Directors or a committee of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless: (1) he objects at the beginning of the meeting (or promptly upon his arrival) to holding it or transacting business at the meeting; or (2) his dissent or abstention from the action taken is entered in the minutes of the meeting; or (3) he delivers written notice of his dissent or abstention to the presiding officer of the meeting before its adjournment or to the Kimball immediately after adjournment of the meeting. The right of dissent or abstention is not available to a trustee who votes in favor of the action taken.

§ III.8 Establishing a Quorum or Voting Requirement for the Board of Directors.

Action by the Board of Directors to adopt, amend, or repeal a Bylaw that changes the quorum or voting requirement for the Board of Directors must meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

§ III.9 Director Action Without a Meeting.

Unless the Articles of Incorporation provide otherwise, any action required or permitted to be taken by the Board of Directors at a meeting may be taken without a meeting if all the trustees take the action, each one signs a written consent describing the action taken, and the consents are filed with the records of the Kimball. Action taken by consents is effective when the last trustee signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be described as such in any document.

§ III.10 Removal of Directors.

The Board of Directors may remove one or more of the other trustees at a meeting

called for that purpose if notice has been given that the purpose of the meeting is for such removal. The removal may be with or without cause unless the Articles of Incorporation provide that trustees may only be removed with cause.

§ III.11 Board of Director Vacancies.

Unless the Articles of Incorporation provide otherwise, if a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of trustees, the trustees may appoint a person to fill the vacancy.

The term of a trustee elected to fill a vacancy expires at the next Board of Directors meeting at which trustees are elected. However, if his term expires, he shall continue to serve until his successor is elected and qualifies or until there is a decrease in the number of trustees.

§ III.12 Director Compensation.

Unless otherwise provided in the Articles of Incorporation, or by resolution of the Board of Directors, no trustee shall be paid any stated salary or compensation for serving as a trustee. No such restriction on payment shall preclude any trustee from serving the Kimball in any capacity and receiving compensation therefor.

§ III.13 Director Committees.

(a) *Creation of Committees.*

Unless the Articles of Incorporation provide otherwise, the Board of Directors may create one or more committees and appoint members of the Board of Directors to serve on them. Each committee must have two or more members, who serve at the pleasure of the Board of Directors.

(b) *Selection of Members.*

The creation of a committee and appointment of members to it must be approved by the greater of (1) a majority of all the trustees in office when the action is taken or (2) the number of trustees required by the Articles of Incorporation to take such action, (or if not specified in the Articles of Incorporation the number required by § 3.7 of this Article III to take action).

(c) *Required Procedures.*

Sections 3.4, 3.5, 3.6, 3.7, 3.8 and 3.9 of this Article III, which govern meetings, action without meetings, notice and waiver of notice, quorum

and voting requirements of the Board of Directors, apply to committees and their members.

(d) *Authority.*

Unless limited by the Articles of Incorporation, each committee may exercise those aspects of the authority of the Board of Directors which the Board of Directors confers upon such committee in the resolution creating the committee. Provided, however, a committee may not.

- (1) authorize distributions to Members;
- (2) fill vacancies on the Board of Directors or on any of its committees;
- (3) amend the Articles of Incorporation; or
- (4) adopt, amend, or repeal Bylaws.

ARTICLE IV. OFFICERS

§ IV.1 Number of Officers.

The officers of the Kimball shall be a president, a secretary, and a treasurer, each of whom shall be appointed by the Board of Directors. Such other officers and assistant officers as may be deemed necessary, including any vice-presidents, may be appointed by the Board of Directors. If specifically authorized by the Board of Directors, an officer may appoint one or more officers or assistant officers. The same individual may simultaneously hold more than one office in the Kimball.

§ IV.2 Appointment and Term of Office.

The officers of the Kimball shall be appointed by the Board of Directors for a term as determined by the Board of Directors. (The designation of a specified term grants to the officer no contract rights, and the board can remove the officer at any time prior to the termination of such term.) If no term is specified, they shall hold office until they resign, die, or they are removed in the manner provided in § 4.3 of this Article IV.

§ IV.3 Removal of Officers.

Any officer or agent may be removed by the Board of Directors at any time, with or without cause. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Appointment of an officer or agent shall not of itself create contract

rights.

§ IV.4 President.

The president shall be the principal executive officer of the Kimball and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Kimball. He shall, when present, preside at all meetings of the Board of Directors. He may sign, with the secretary or any other proper officer of the Kimball thereunto authorized by the Board of Directors, certificates for shares of the Kimball and deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or ha these Bylaws to some other officer or agent of the Kimball, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

§ IV.5 The Vice-Presidents.

If appointed, in the absence of the president or in the event of his death, inability or refusal to act, the vice-president (or in the event there be more than one vice-president, the vice-presidents in the order designated at the time of their election, or in I the absence of any designation, then in the order of their appointment) shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. (If there is no vice-president, then the treasurer shall perform such duties of the president.) Any vice-president may sign, with the secretary or an assistant secretary, certificates for shares of the Kimball the issuance of which have been authorized by resolution of the Board of Directors; and shall perform such other duties as from time to time may be assigned to him by the president or by the Board of Directors.

§ IV.6 The Secretary.

The secretary shall: (a) keep the minutes of the proceedings of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of any seal of the Kimball and if there is a seal of the Kimball, see that it is affixed to all documents the execution of which on behalf of the Kimball under its seal is duly authorized; (d) when requested or required, authenticate any records of the Kimball; and (e) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the Board of Directors.

§ IV.7 The Treasurer.

The treasurer shall: (a) have charge and custody of and be responsible for all funds and

securities of the Kimball; (b) receive and give receipts for moneys due and payable to the Kimball from any source whatsoever, and deposit all such money in the name of the Kimball in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; and (c) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the president or by the Board of Directors. If required by the Board of Directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine.

§ IV.8 Assistant Secretaries and Assistant Treasurers.

The assistant secretaries, when authorized by the Board of Directors, may sign with the president or a vice-president certificates for shares of the Kimball the issuance of which shall have been authorized by a resolution of the Board of Directors. The assistant treasurers shall, respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or the treasurer, respectively, or by the president or the Board of Directors.

§ IV.9 Salaries.

The salaries of the officers, if any, shall be fixed from time to time by the Board of Directors.

ARTICLE V. INDEMNIFICATION OF DIRECTORS, OFFICERS, AGENTS, AND EMPLOYEES

§ V.1 Indemnification of Directors.

Unless otherwise provided in the Articles of Incorporation, the Kimball shall indemnify any individual made a party to a proceeding because he is or was a trustee of the Kimball, against liability incurred in the proceeding, but only if the Kimball has authorized the payment in accordance with Section 16-10a-906(1) of the Act, and a determination has been made in accordance with the procedures set forth in Section 16-10a-906(2) of the Act, that the trustee met the standards of conduct in paragraphs (a), (b), and (c) below.

(a) *Standard of Conduct*

The individual shall demonstrate that:

- (1) he conducted himself in good faith; and

- (2) he reasonably believed:
 - (i) in the case of conduct in his official capacity with the Kimball, that his conduct was in its best interests;
 - (ii) in all other cases, that his conduct was at least not opposed to its best interests; and
 - (iii) in the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

(b) *No Indemnification Permitted in Certain Circumstances*

The Kimball shall not indemnify a trustee under this § 5.1 of Article V:

- (1) in connection with a proceeding by or in the right of the Kimball in which the trustee was adjudged liable to the Kimball; or
- (2) in connection with any other proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

(c) *Indemnification in Derivative Actions Limited*

Indemnification permitted under this § 5.1 of Article V in connection with a proceeding by or in the right of the Kimball is limited to reasonable expenses incurred in connection with the proceeding.

§ V.2 Advance Expenses for Directors.

If a determination is made, following the procedures of Section 16-10a-906(2) of the Act, that the trustee has met the following requirements; and if an authorization of payment is made, following the procedures and standards set forth in Section 16-10a-906(1) of the Act, then unless otherwise provided in the Articles of Incorporation, the Kimball shall pay for or reimburse the reasonable expenses incurred by a trustee who is a party to a proceeding in advance of final disposition of the proceeding, if:

- (a) the trustee furnishes the Kimball a written affirmation of his good faith belief that he has met the standard of conduct described in § 5.1 of this Article V;
- (b) the trustee furnishes the Kimball a written undertaking, executed

personally or on his behalf, to repay the advance if it is ultimately determined that he did not meet the standard of conduct (which undertaking must be an unlimited general obligation of the trustee but need not be secured and may be accepted without reference to financial ability to make repayment); and

- (c) a determination is made that the facts then known to those making the determination would not preclude indemnification under § 5.1 of this Article or Sections 901 *et seq.* of the Act.

§ V.3 Indemnification of Officers, Agents, and Employees Who are not Directors.

Unless otherwise provided in the Articles of Incorporation, the Board of Directors may indemnify and advance expenses to any officer, employee, or agent of the Kimball, who is not a trustee of the Kimball, to any extent consistent with public policy, as determined by the general or specific action of the Board of Directors.

ARTICLE VI. CORPORATE SEAL

§ VI.1 Corporate Seal.

The Board of Directors may provide a corporate seal which may be circular in form and have inscribed thereon any designation including the name of the company, Utah as the state of incorporation, and the words "Corporate Seal."

ARTICLE VII. AMENDMENT

§ VII.1 Amendments.

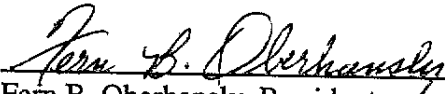
The Kimball's Board of Directors may amend or repeal the Kimball's Bylaws.


Any amendment which changes the voting or quorum requirement for the board must comply with Article III, § 3.8.

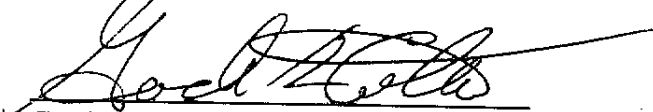
ACKNOWLEDGEMENT

The undersigned, Fern B. Oberhansly, Ken Bernt, Gordon Cotton, William Wilson, Art Chandler, hereby acknowledges that they have been named as registered agents of The Kimball Condominiums Owners Association, Inc., A Utah corporation to be formed pursuant to Articles of Incorporation to which this Acknowledgement is attached, and hereby agrees to act as registered agent of said corporation.

On this 14th day of August, 1998, The Kimball Condominiums Owners Association approves the above stated By-laws as written.


Fern B. Oberhansly, President


Ken Bernt, Vice President


Gordon Cotton, Sec. / Treasurer


William Wilson


Art Chandler

BK8258PG8535

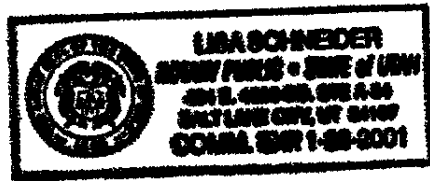
STATE OF UTAH)
COUNTY OF Salt Lake) SS.

On this 14th day of August, 1998, personally appeared before me Fern Oberhansly, Ken Bernt, Gordon Cotton, William Wilson, Art Chandler, the signers of the foregoing acknowledgement, who duly acknowledged to me that they executed the same.

Lisa Schneider
NOTARY PUBLIC
Residing at: Salt Lake

My commission Expires:

1-23-2001



BK8250PG8536