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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN E. KROLL,

Plaintiff,

vs.

INCLINE VILLAGE GENERAL IMPROVEMENT
DISTRICT, a/k/a IVGID, a governmental subdivi-
sion of the State of Nevada; et al.,

Defendants.

Case No. 3:08-cv-00166-ECR-RAM

**Plaintiff's Interrogatories to Defen-
dant ROBERT C. WOLF (First Set:
7 Questions)**

One Exhibit Marked 171

and

Certificate of Service

Interrogatories to Defendant ROBERT C. WOLF (First Set)

TO: Defendant ROBERT C. WOLF and his attorneys of record

FROM: Plaintiff STEVEN E. KROLL

Plaintiff, by and through his attorney undersigned, requires that Defen-
dant ROBERT C. WOLF¹ answer within 30 days of the service hereof the follow-

¹ As used in these Interrogatories, the term, "defendant ROBERT C. WOLF" includes, in addition to the named defendant, his attorneys, agents, servants, employees, representatives, private investi-
gators, or others who are in the possession of or who may have obtained information for or on be-
half of the named defendant. Defendant is advised that an interrogatory is not objectionable
merely because it asks for an opinion or contention that relates to fact or the application of law to
fact.

ing Interrogatories² fully, under oath, and in accordance with FRCP Rule 33 and the other applicable Federal Rules of Civil Procedure. **Terms defined in the footnotes hereto apply to all interrogatories, not just the footnoted one.** If the information furnished is not within the personal knowledge of defendant WOLF, please state the name of each person to whom the information is a matter of personal knowledge and upon whom defendant WOLF is relying in answering these Interrogatories. In order to make your answers fully understandable, Plaintiff requests that you precede each answer by a restatement of the numbered Interrogatory you are answering. Defendant WOLF is advised that Rule 37(a)(4) of the Federal Rules of Civil Procedure provides that **an evasive or incomplete response to any of the following Interrogatories will be treated as a failure to respond** for purposes of compelling discovery and/or seeking sanctions in court.

INTERROGATORIES TO DEFENDANT ROBERT C. WOLF:

1. Is the Memorandum to the IVGID Board of Trustees from General Counsel T. Scott Brooke dated 11 October 2006 referencing "Petition" attached hereto marked Plaintiff's Exhibit 171 for identification genuine to the best of your information and belief?
2. Did you attend in person or by telephone or other remote device the "private meeting" on November 8, 2006 referred to by Mr. Brooke in his Memorandum to the Board dated 11 October 2006 set forth in Plaintiff's Exhibit 171 attached hereto?
3. If your answer to the foregoing Interrogatory No. 2 is affirmative, please state:

² These Interrogatories are continuing in character so as to require you to file supplementary answers if you obtain further or different information before trial.

(a) The address where the “private meeting” took place;

(b) The name of each person present in person or by telephone or other remote hookup at any time, however briefly, during the course of the “private meeting”;

(c) The approximate time of day the “private meeting” began and the approximate time it ended;

(d) Whether any audio or video recording was made of any portion of the “private meeting”;

(e) Whether any minutes or informal notes were taken of the “private meeting,” and if so the name of the person or persons taking such informal notes or minutes;

(f) Whether you received or read the “updated summary on the entire beach property issue, for distribution to the Trustees in anticipation of a private meeting” referred to in Mr. Brooke’s October 11, 2006 Memorandum marked as Plaintiff’s Exhibit 171 attached hereto, and if so, the approximate date you received and/or read said “updated summary”;

(g) Whether you have under your custody or control a copy of the “updated summary on the entire beach issue” referred to by Mr. Brooke in his Memorandum of October 11, 2006, Exhibit 171 attached hereto?

4. Starting from January 1, 2006 and continuing to the date of your Answers to these Interrogatories, please set forth each and

every meeting you had or were invited to attend at which any two or more other IVGID Trustees were in attendance, and which was treated as a “private meeting” of the kind referred to in Exhibit 171 attached hereto, and for each such “private meeting” state:

- (a) The date of each such meeting;
- (b) The name and address of the location at which each such meeting took place;
- (c) The name of the individual or individuals calling such meeting, and the means by which you were notified thereof;
- (d) The approximate time of day each such meeting commenced and ended;
- (e) The name of each individual present in person or by telephone or other remote means for whatever period of time during the course of each such meeting;
- (f) Whether any minutes or informal notes, or audio or video recordings were taken or made of each such meeting, and if so the name of the person or persons with custody or control over any such records or documents³; and
- (g) In general terms, the topics discussed at each such meeting.

5. Did you attend a non-public meeting on or about April 23,

³ The meaning of the word “record” or “document” shall include, but not be limited to, writings, drawings, graphs, charts, photographs, reports, computer disks, and other data compilations from which information can be obtained or translated, if necessary, through devices or other equipment into reasonable, usable form.

2008 with other Trustees at which issues of First Amendment rights and Free Expression on the IVGID Beach Properties⁴ were discussed?

6. If your answer to the foregoing Interrogatory No. 5 is affirmative, state to the best of your knowledge:

(a) Who called the meeting that took place on or about April 23, 2008?

(b) The name of each individual who was present in person or by telephone or other remote device during any part of that meeting of April 23, 2008, and in what capacity each such individual appeared;

(c) Whether the main topic of discussion during this meeting on or about April 23, 2008 was the adoption of what was to become Policy 136⁵?

(d) Whether any other topic was discussed during that meeting on or about April 23, 2008, and if so, what?

(e) Whether during the discussion on or about April 23, 2008 the 1968 Deed to the Beach Properties or the Restrictive Covenant therein was raised by any participant, and if so, the name of the participant(s) and the general contents of any discussion arising therefrom.

(f) Whether during the discussion on or about April 23, 2008 the Nevada Open Meeting Law was raised by any partici-

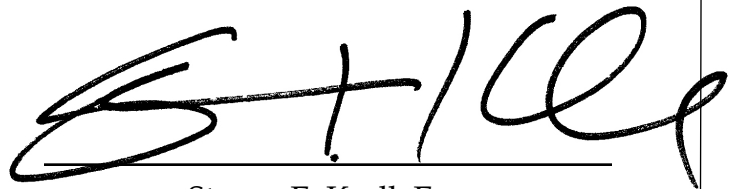
⁴ The "Beach Properties" refer to Incline Beach, Ski Beach, Burnt Cedar Beach, and Hermit Beach.

⁵ IVGID Policy and Procedure Number 136 – Policy Concerning Access to District Property and the Use of District Facilities for Expression effective May 1, 2008.

pant, and if so, the name of the participant(s) and the general contents of any discussion arising therefrom.

7. Are you aware whether IVGID made an audio recording of the April 30, 2008 Board of Trustees Meeting, and if it did, please state who has custody and control over that recording.

DATED: at Crystal Bay this 8th day of the 8th Month of August, 2008.

A handwritten signature in black ink, appearing to read 'S. Kroll', written over a horizontal line.

Steven E. Kroll, Esq.
Attorney for Plaintiff

EXHIBIT

171

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ATTORNEYS AT LAW

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Memorandum

This Memorandum is protected by the Attorney/Client Privilege

TO: Board of Trustees
Incline Village General Improvement District

FROM: T. Scott Brooke, General Counsel 

DATE: 11 October 2006

IN RE: Petition

The purpose of this memorandum is to provide preliminary advice concerning the Petition received 18 September 2006 requesting recusal by the Board of Trustees on amending Ordinance 7.

I. CONCLUSION

The Board of Trustees and the individual member trustees thereof are not precluded from proceeding with any action amending Ordinance 7, or otherwise from taking action which pertains to the beach properties owned by the District.

II. BACKGROUND

On 18 September 2006, the District received a document entitled, "A Petition to the Hon. Trustees of the Incline Village General Improvement District to Recuse Themselves From Voting on Proposed Ordinance 7 as Required by Law and Propriety." The Petition documents showed 13 signatures (on 3 separate pages) and was dated 18 September 2006.

In essence, the Petition takes the position that since each trustee is an owner of property within the District and is a beneficiary of the deed restrictions on the District beach property that are implemented by Ordinance 7, that the conflict provisions in Nevada law prevent the Trustees from acting on the matter. The Petition requests that the Trustees recuse themselves, and allow any matter regarding the beach property or Ordinance 7 implementing it (i.e., the recreation pass policy), to be undertaken by the Washoe County Board of Commissioners.

Counsel has been requested to and is separately preparing an updated summary on the entire beach property issue, for distribution to the Trustees, in anticipation of a private meeting

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and discussion on 8 November 2006. This will be a “non-meeting” under the provisions of NRS 241.015 to discuss litigation. Counsel is of the opinion that the recent communications to the District and public statements by parties involved constitute threatened litigation.

III. DISCUSSION

The beach property was acquired in 1968, and the implementing provisions in Ordinance 7 were developed in 1987. Those actions were taken by prior Boards of Trustees. Additionally, prior Boards, when reviewing the matter, have generally taken no action other than to implement the restrictive provisions and maintain those measures.

The current amendments of Ordinance 7 are not related to or driven by the beach access issue; the provisions of Article VIII, Section 62, are not modified. Staff continues to discuss, however, possible modification to the recreation pass policy.

The provisions of NRS 318.0956 and .0957 as cited in the Petition apply to current conflicts on current actions. The current Board is not entering into a contract for purchase or sale of the property or any contract involving an individual trustee. Moreover, no existing Trustee is interested in the beach property in any manner that is different from any other property owner who has the benefit or burden of the deed restrictions. Accordingly, Counsel concludes that they are not “interested” in the particular manner contemplated under the cited statute.

In summary, Counsel does not recommend that the Board or any individual recuse from consideration of any matter pertaining to Ordinance 7 or the beach properties. Counsel is of the opinion, however, that the Petition is intended to be a foundation for subsequent litigation.

- END MEMO -

TSB/mmr

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CERTIFICATE OF SERVICE BY MAIL and EMAIL

Pursuant to Rule 5(b) FRCP, I certify that I am the attorney for Plaintiff in the above entitled action, and that on this date I caused a true and correct copy of the “**Plaintiff’s Interrogatories to Defendant ROBERT C. WOLF (First Set: 7 Questions)**” herein to be served upon the parties or attorneys by depositing the same with the U.S. Post Office from a point within the State of Nevada, first class postage pre-paid, and addressed to:

**Stephen C. Balkenbush, Esq.
Thorndal, Armstrong, Delk, Balkenbush & Eisinger
6590 South McCarran Blvd. Suite B
Reno, Nevada 89509**

and also electronically by eMail to said parties or attorneys addressed to:

Stephen C. Balkenbush
rla@thorndal.com,
receptionist2@thorndal.com
sbalkenbush@thorndal.com
smb@thorndal.com

DATED: this 8th day of August, 2008.



STEVEN E. KROLL