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 7 Attorneys for Defendants  
 8 Incline Village General Improvement District, John A. Bohn, Gene Brockman, Bea Epstein,  
 9 Chuck Weinberger and Robert C. Wolf

6  
 7  
 8 UNITED STATES DISTRICT COURT  
 9 FOR THE DISTRICT OF NEVADA

RECEIVED  
 SEP 08 2008  
 BY:.....

10 STEVEN E. KROLL,

11 Plaintiff

Case No. 3:08-CV-0166-ECR-RAM

12 vs.

13 INCLINE VILLAGE GENERAL  
 14 IMPROVEMENT DISTRICT, aka IVGID, a  
 15 governmental subdivision of the State of  
 16 Nevada; JOHN A. BOHN; GENE  
 17 BROCKMAN; BEA EPSTEIN, CHUCK  
 18 WEINBERGER and ROBERT C. WOLF,  
 19 individually and as Trustees of IVGID; DOES  
 20 1 through 25, inclusive, each in their  
 21 individual and official capacities,  
 22 Defendants.

**CHARLES WEINBERGER'S**  
**RESPONSES TO PLAINTIFF'S**  
**REQUESTS FOR**  
**ADMISSIONS (FIRST SET)**

20 COMES NOW, Defendant, CHARLES WEINBERGER by and through his attorneys of  
 21 record, THORNDAL, ARMSTRONG, DELK, BALKENBUSH & EISINGER, and in  
 22 accordance with Rule 36 of the Federal Rules of Civil Procedure, hereby responds to Plaintiff's  
 23 Requests for Admissions as follows:

24 **REQUEST NO. 1**

25 IVGID Ordinance 7 Section 62 creates two classes of IVGID residents, one class  
 26 which is granted entry onto and use of the IVGID-owned Beach Properties for recreational  
 27 purposes, and the other class which is denied entry onto and use of the IVGID-owned Beach  
 28 Properties for recreational purposes.

1 **RESPONSE NO. 1**

2 Denied.

3 **REQUEST NO. 2**

4 Except for the Incline Village General Improvement District in which you sit as a Trustee,  
5 you are personally aware of no other city or other municipal government in any state of the  
6 United States today which prohibits certain residents of that municipality as a class from entering  
7 or using their government-owned recreational facilities for recreational purposes, while allowing  
8 certain other residents as a class to enter and use those same facilities for recreational purposes.

9 **RESPONSE NO. 2**

10 Objection. Request for Admission No. 2 is an incomplete hypothetical, an inaccurate and  
11 incomplete statement of facts concerning this case and is not reasonably calculated to lead to the  
12 discovery of admissible evidence. Without waiving these objections, I am not aware of any  
13 municipal government entity in the nation which was deeded property with a deed restriction  
14 similar to the restriction in the 1968 Deed which is attached as Exhibit 1 to Plaintiff's first  
15 amended complaint. Accordingly, I can neither admit nor deny Request for Admission No. 2.

16 **REQUEST NO. 3**

17 While in Law School, you took a course in Constitutional Law.

18 **RESPONSE NO. 3**

19 Objection. Request for Admission No. 3 is not reasonably calculated to lead to the  
20 discovery of admissible evidence in that whether Charles S Weinberger took a course in  
21 constitutional law while he was in law school is not germane to any of the issues raised in this  
22 case. Without waiving this objection, Request for Admission No. 3 is admitted.

23 **REQUEST NO. 4**

24 You are aware by virtue of your schooling and life experiences of the segregationist  
25 history of the American South, and of the practice by some municipal governments during those  
26 times of transferring their publicly-owned recreational facilities to private ownership so that the  
27 exclusion of people of color from those recreational facilities could continue to be enforced.

1 **RESPONSE NO. 4**

2           Objection. The history of the American South and the alleged transferring of the  
3 ownership of public recreational facilities to private ownership so that people of color could be  
4 excluded from using those recreational facilities has nothing whatsoever to do with the instant  
5 matter and, accordingly, Request for Admission No. 4 is not reasonably calculated to lead to the  
6 discovery of admissible evidence. Without waiving these objections, Request for Admission No.  
7 4 is denied.

8 **REQUEST NO. 5**

9           You are the originator of the term “public with restricted access” to describe the status of  
10 the IVGID Beach Properties.

11 **RESPONSE NO. 5**

12           Denied.

13 **REQUEST NO. 6**

14           “Public with restricted access” is another way of saying “private.”

15 **RESPONSE NO. 6**

16           Objection. Request for Admission No. 6 is vague and ambiguous in what is meant by  
17 “public with restricted access.” Further, I do not know what is meant by the phrase “public with  
18 restricted access.” Insofar as I have no understanding of the phrase “public with restricted  
19 access” Request for Admission No. 6 is denied.

20 **REQUEST NO. 7**

21           The photograph attached hereto as Plaintiff’s Exhibit 4 for identification is genuine, and  
22 among other details shows a sign saying “Private Beach” affixed to the entry kiosk of what you  
23 personally recognize as one of IVGID’s Beach Properties.

24 **RESPONSE NO. 7**

25           With respect to the photograph attached as Exhibit 4 to Plaintiff’s Requests for  
26 Admissions, Charles Weinberger did not take the photograph, does not know when it was taken  
27 nor by whom it was taken. Without this foundational understanding, Charles Weinberger has no  
28 way of determining whether the photograph is authentic.

1 **REQUEST NO. 8**

2 The 1954 Deed for a piece of real property in Crystal Bay, Nevada attached hereto and  
3 marked Plaintiff's Exhibit 152 for identification is genuine.

4 **RESPONSE NO. 8**

5 Objection. The 1954 Deed attached as Exhibit 152 to Plaintiff's Requests for Admissions  
6 is not germane to the issues in this litigation and is not reasonably calculated to lead to the  
7 discovery of admissible evidence. Further, Charles Weinberger can neither admit nor deny the  
8 authenticity of the 1954 Deed which is attached as Exhibit 152 to the Requests for Admissions in  
9 that he has no knowledge whatsoever concerning same.

10 **REQUEST NO. 9**

11 The 1954 Deed attached hereto as Plaintiff's Exhibit 152 for identification contains a  
12 Restrictive Covenant prohibiting the Crystal Bay premises being transferred from ever, at any  
13 time, being sold, conveyed, leased, or rented to any person other than of the Caucasian Race.

14 **RESPONSE NO. 9**

15 Objection. The language contained in the 1954 deed attached as Exhibit 152 to Plaintiff's  
16 Requests for Admissions has nothing to do with the issues in this litigation and, therefore, is not  
17 reasonably calculated to lead to the discovery of admissible evidence. Further, Request for  
18 Admission No. 9 seeks information which calls for a legal conclusion. See Disability Rights  
19 Council of Greater Washington v. Washington Metropolitan Area Transit Authority, 234  
20 F.R.D.1, 3 (D. D.C. 2006). Without waiving this objection Exhibit 152 appears to contain a  
21 reservation and restriction which provides as follows: "2. No part of said premises ever, at any  
22 time, shall be sold, conveyed, leased, or rented to any person other than of the Caucasian Race."

23 **REQUEST NO. 10**

24 You would never under any circumstances, whether in the capacity of an individual  
25 homeowner or as an elected government official, support the enforcement of the Restrictive  
26 Covenant contained in the 1954 Deed attached hereto as Plaintiff's Exhibit 152 for identification.

27 **RESPONSE NO. 10**

28 Objection. The language contained in the 1954 deed attached as Exhibit 152 to Plaintiff's

1 Requests for Admissions has nothing to do with the issues in this litigation and, therefore, is not  
2 reasonably calculated to lead to the discovery of admissible evidence. Further, Request for  
3 Admission No. 10 is vague and ambiguous concerning which restrictive covenant of the 1954  
4 deed is being referenced and, accordingly, Charles Weinberger can neither admit nor deny  
5 Request for Admission No.10.

6 **REQUEST NO. 11**

7 The excerpt from the Minutes of the Board of Trustees on July 9, 2008 attached hereto as  
8 Plaintiff's Exhibit 169 for identification is genuine.

9 **RESPONSE NO. 11**

10 Charles Weinberger admits that Exhibit 169 attached to Plaintiff's Requests for  
11 Admissions are pages 7, 8, 12, 13 and 14 of the minutes of the IVGID Board of Trustees meeting  
12 of July 9, 2008.

13 **REQUEST NO. 12**

14 At the Meeting of the IVGID Board of Trustees on July 9, 2008 you said in words or  
15 substance that there is not nor will there ever be any backroom deals by IVGID Trustees.

16 **RESPONSE NO. 12**

17 Objection. The comment I made at the bottom of page 12 of the minutes of the IVGID  
18 meeting of July 9, 2008 (Exhibit 169) was related to the Machata litigation. This comment was  
19 not made in connection with the Kroll litigation. Without waiving this objection, Request for  
20 Admission No. 12 is denied.

21 **REQUEST NO. 13**

22 By "backroom deals" in your July 9, 2008 public comments, you meant secret meetings  
23 and agreements among Trustees of IVGID made outside the public eye without advance public  
24 notice and input.

25 **RESPONSE NO. 13**

26 Objection. Request for Admission No. 13 is unduly vague and ambiguous. Further,  
27 Request for Admission No. 13 is compound. Without waiving these objections, actions of the  
28 IVGID Board of Trustees are taken at public meetings. Further, without waiving these

1 objections, Request for Admission No. 13 is denied.

2 **REQUEST NO. 14**

3 On or about April 23, 2008 you met with other IVGID Trustees without notice to the  
4 public and outside the public eye and discussed what was later to become Policy 136.

5 **RESPONSE NO. 14**

6 Denied.

7 **REQUEST NO. 15**

8 At the Board meeting of April 30, 2008 at which the adoption of Policy 136 was on the  
9 Agenda, you voted for the formal adoption of Policy 136 without disclosing that you had  
10 previously met in secret with other Trustees to discuss this matter.

11 **RESPONSE NO. 15**

12 Objection. Request for Admission No. 15 is vague and ambiguous in what is meant by  
13 the phrase “met in secret.” Without waiving this objection, Charles Weinberger admits that he  
14 voted to adopt IVGID Policy 136 at the IVGID Board’s regularly scheduled meeting on April 30,  
15 2008. Further, without waiving these objections, Request for Admission No. 15 is denied.

16 **REQUEST NO. 16**

17 At the Meeting of the IVGID Board of Trustees on July 9, 2008 which you attended,  
18 Trustee Bob Wolf said in words or substance that the purpose of IVGID’s defense of the Beach  
19 Access litigation now in Federal Court “is to protect property rights,” and you agreed then and  
20 agree now with that statement of IVGID’s purpose.

21 **RESPONSE NO. 16**

22 Objection. Request for Admission No.16 includes an interpretation of what Trustee  
23 Wolf meant by a comment he made at the July 9, 2008 IVGID Board meeting. I do not know  
24 what Trustee Wolf meant by his comments referred to in Request for Admission No.16, therefore  
25 I can neither admit nor deny Request for Admission No.16.

26 **REQUEST NO. 17**

27 The property right which you and the District are defending in the above-captioned  
28 lawsuit is the perceived right of exclusive access to and use of IVGID’s Beach Properties granted

1 to property owners in Incline Village by virtue of the Restrictive Covenant in the 1968 Deed.

2 **RESPONSE NO. 17**

3       Objection. Request for Admission No. 17 is vague and ambiguous as to what is meant by  
4 “perceived right of exclusive access.” Without waiving this objection, IVGID is defending the  
5 issues raised by Plaintiff in his first amended complaint. Further, without waiving this objection,  
6 Request for Admission No. 17 is denied.

7 **REQUEST NO. 18**

8       Defending the property right of those residents of the District who claim exclusive access  
9 to the District’s Beach Properties requires that you reject the claim by those residents of the  
10 District who are excluded from the Beach Properties and who assert their own rights therein and  
11 thereto.

12 **RESPONSE NO. 18**

13       Objection. Request for Admission No. 18 assumes facts not in evidence. In this  
14 litigation IVGID is not defending the property rights of those residents of IVGID who claim  
15 exclusive access to IVGID’s Beach Properties. Instead, IVGID is defending the issues raised by  
16 Plaintiff in his first amended complaint. Without waiving these objections Request for  
17 Admission No. 18 is denied.

18 **REQUEST NO. 19**

19       You, CHUCK WEINBERGER, are a 1968 Deed Holder in Incline Village and enjoy  
20 access to and full use of the tax-exempt IVGID Beach Properties.

21 **RESPONSE NO. 19**

22       Objection. Request for Admission No. 19 is vague in what is meant by the phrase “1968  
23 Deed Holder in Incline Village.” Further, Request for Admission No.19 is compound. Without  
24 waiving these objections, Charles Weinberger currently owns a piece of real property in IVGID  
25 which said parcel of real property existed prior to 1968 and he has access to IVGID Beach  
26 Properties. Further, without waiving these objections, Request for Admission No. 19 is denied.

27 **REQUEST NO. 20**

28       Plaintiff STEVEN E. KROLL herein is a bona fide resident of IVGID but does not enjoy

1 access to and full use of the tax-exempt IVGID Beach Properties for recreational purposes as you  
2 do.

3 **RESPONSE NO. 20**

4 Objection. Request for Admission No. 20 is vague and ambiguous in what is meant by  
5 the phrase “bona fide resident of IVGID.” Further, Charles Weinberger does not know whether  
6 Plaintiff has access to IVGID Beach Properties. Without waiving these objections Charles  
7 Weinberger can neither admit nor deny Request for Admission No. 20.

8 **REQUEST NO. 21**

9 The benefit accruing to you personally by voting to maintain exclusive access to IVGID’s  
10 Beach Properties for 1968 Deed Holders in the Incline Village is greater than that accruing to  
11 other IVGID property owners in Crystal Bay who are excluded from IVGID’s Beach Properties  
12 because they are not 1968 Deed Holders.

13 **RESPONSE NO. 21**

14 Objection. Request for Admission No. 21 is vague in what is meant by the phrase “1968  
15 Deed Holders in Incline Village.” Without waiving this objection, Request for Admission No.  
16 21 is denied.

17 **REQUEST NO. 22**

18 Because any vote by you as a Trustee on matters involving Beach Access personally  
19 benefits you to the detriment of those of your constituents who are denied Beach Access by  
20 IVGID law, you are prohibited from voting on such matter by Nevada Revised Statue Section  
21 281.501

22 **RESPONSE NO. 22**

23 Objection. Request for Admission No. 22 calls for a legal conclusion. . See Disability  
24 Rights Council of Greater Washington v. Washington Metropolitan Area Transit Authority, 234  
25 F.R.D.1, 3 (D. D.C. 2006). Without waiving this objection, Request for Admission No. 22 is  
26 denied.

27 **REQUEST NO. 23**

28 NRS 281.421 requires that you must commit yourself to avoid conflicts between your

1 private interests and those of the general public whom you serve as a Trustee.

2 **RESPONSE NO. 23**

3 Objection. Request for Admission No. 23 calls for a legal conclusion. See Disability  
4 Rights Council of Greater Washington v. Washington Metropolitan Area Transit Authority, 234  
5 F.R.D.1, 3 (D. D.C. 2006). Without waiving this objection, Charles Weinberger admits that NRS  
6 281A.020(1)(b) provides as follows: “a public officer or employee must commit himself to avoid  
7 conflicts between his private interests and those of the general public whom he serves.”

8 **REQUEST NO. 24**

9 When you were sworn in as a Trustee of the Incline Village General Improvement  
10 District, you took the following oath in the words or substance: “I do solemnly swear that I will  
11 support, protect and defend the constitution and government of the United States, and the  
12 constitution and government of the State of Nevada, against all enemies, whether domestic or  
13 foreign, and I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or  
14 law of any state notwithstanding, and that I will well and faithfully perform all the duties of the  
15 office of Trustee, Incline Village General Improvement District.”

16 **RESPONSE NO. 24**

17 Admit.

18 **REQUEST NO. 25**

19 In your personal opinion, your obligation to the Constitution of the United States and  
20 Constitution of the State of Nevada to guarantee the equal protection of the law to all residents  
21 and taxpayers within the governmental body known as the Incline Village General Improvement  
22 District trumps any obligation you may have to protect the Restrictive Covenant of the 1968  
23 Deed.

24 **RESPONSE NO. 25**

25 Objection. Request for Admission No. 25 is vague and ambiguous as to what is meant by  
26 the term “trumps.” Further, Request for Admission No.25 calls for a legal conclusion. See  
27 Disability Rights Council of Greater Washington v. Washington Metropolitan Area Transit  
28 Authority, 234 F.R.D.1 (D. D.C. 2006). Without waiving these objections, Request for

1 Admission No. 25 is denied.

2 **REQUEST NO. 26**

3 You are the individual who originated the idea of creating Free Speech zones at the  
4 IVGID Beach Properties which ultimately became Policy 136.

5 **RESPONSE NO. 26**

6 Denied.

7 **REQUEST NO. 27**

8 Policy 136 allows persons who are not 1968 Deed Holders or guests of 1968 Deed  
9 Holders to enter the Beach Properties for purposes of expressing their First Amendment rights.

10 **RESPONSE NO. 27**

11 Objection. Request for Admission No.27 is vague and ambiguous in what is meant  
12 by the phrase “1968 Deed Holders.” Without waiving this objection, it is the understanding of  
13 CHARLES Weinberger that Policy 136 allows any person to enter the IVGID Beach Properties  
14 for purposes of expressing their First Amendment rights.

15 **REQUEST NO. 28**

16 You recognize that by allowing persons who are not 1968 Deed Holders or their guests to  
17 gain access to and use of the Beach Properties, Section 62 of Ordinance 7 and the Restrictive  
18 Covenant of the 1968 Deed upon which it is based are violated.

19 **RESPONSE NO. 28**

20 Objection. Request for Admission No. 28 calls for a legal conclusion. See Disability  
21 Rights Council of Greater Washington v. Washington Metropolitan Area Transit Authority, 234  
22 F.R.D.1, 3 (D. D.C. 2006). Further, Request for Admission No.28 is vague and ambiguous in  
23 what is meant by the phrase “1968 Deed Holders.” Further, Request for Admission No.28 is  
24 compound. Without waiving this objection, Request for Admission No. 28 is denied.

25 **REQUEST NO. 29**

26 At the Board of Trustees Meeting of July 9, 2008, referring to another IVGID-owned  
27 piece of deed-restricted real property you stated in words or substance that “the Board won’t be  
28 changing the deed restriction because the only body that has the authority to do that is the court.”



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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of Thorndal, Armstrong, Delk, Balkenbush & Eisinger, and that on this day I deposited for mailing at Reno, Nevada the original of **CHARLES WEINBERGER'S RESPONSES TO PLAINTIFF'S REQUESTS FOR ADMISSIONS (FIRST SET)**, addressed as follows:

**Steven E. Kroll, Esq.  
Post Office Box 8  
Crystal Bay, NV 89402**

DATED this 5th day of September, 2008.

