



Stephanie Rice, Esq.
Stephanie@MLReno.com

October 1, 2021

Board of Trustees
Incline Village General Improvement District
c/o Joshua Nelson, Esq.
Best Best & Krieger
500 Capitol Mall, Suite 1700
Sacramento, CA 95814

Sent via Hand Delivery and Email to Avoid Delay: joshua.nelson@bbklaw.com

Re: *Violation of Deed Restriction for the Benefit of Specifically Identified IVGID Parcel Owners (Document No. 116713)*

Dear Mr. Nelson,

Please be advised that this office represents a group of Incline Village General Improvement District home and parcel owners who are direct and intended beneficiaries of the express Deed Restriction set forth in Document No. 116713.

As you know, on June 4, 1968 the Village Development Company, formerly known as Crystal Bay Development Co., sold two separate beach front parcels to Incline Village General Improvement District (IVGID). One of these parcels is currently known as Burnt Cedar Beach and the other parcel includes Incline Beach, Ski Beach and Hermit Beach. The Deed, recorded as Document No. 116713, expressly provides, in pertinent part, as follows:

It is hereby covenanted and agreed that the real property above described, and any and all improvements now or hereafter located thereon, **shall be held, maintained and used** by grantee, its successors and assigns, **only for the purposes of recreation by, and for the benefit of, property owners and their tenants** (specifically including occupants of motels and hotels) within the Incline Village General Improvement District as now constituted, and, as the Board of Trustees of said District may determine, the guests of such property owners, and for such other purposes as are herein expressly authorized.

ATTORNEYS AT LAW

midtownlawreno.com • (775) 786-5800
115 Casazza Drive, Reno, Nevada 89502



Stephanie Rice, Esq.
Stephanie@MLReno.com

This covenant shall be in perpetuity, shall be binding upon the successors and assigns of grantee, shall run with and be a charge against the land herein described, shall be for the benefit of each parcel of real property located within the area presently designated and described as Incline Village General Improvement District and shall be enforceable by the owners of such parcels and their heirs, successors and assigns; provided, however, that said Board of Trustees shall have authority to levy assessments and charges as provided by law, and to control, regulate, maintain and improve said property as in its sole discretion it shall deem reasonable and necessary to effectuate the purposes herein mentioned; and provided, further, the **said District shall have the right to use the real property above described for the maintenance and operation of the water pumping facilities now located thereon and such other utility facilities necessary to the operation of the District.**

Grantor, for the benefit of itself and its successors and assigns in the ownership of real properties located within the presently constituted boundaries of Incline Village General Improvement District, **and for the benefit of all other owners of property located within said boundaries**, and their respective successors assigns in such ownership, hereby specifically reserves an easement to enter upon the above described real property and to use said real property for the recreational uses and purposes specified herein. Said District shall have the authority to impose reasonable rules, regulations and controls upon the use of said easement by the owners thereof.

[Emphasis Added]. Deed (“Beach Deed”), at 1:28-3:4. As set forth above, the Beach Deed clearly provides that the beaches shall be used only for purposes of recreation by and for the benefit of the IVGID property owners and their tenants and, as the Board of Trustees may determine, the guests of such property owners. The Beach Deed also grants the property owners an easement appurtenant and provides that this covenant runs with the land and effectively delineates the beaches as the servient or burdened estates and the other property owners’ parcels as the dominant or benefitting estate. Nothing in the Beach Deed provides that may be permitted to non-resident employees, former employees or retirees.

///
///

ATTORNEYS AT LAW

midtownlawreno.com • (775) 786-5800
115 Casazza Drive, Reno, Nevada 89502



Stephanie Rice, Esq.
Stephanie@MLReno.com

Annually, IVGID’s Board of Trustees approve a resolution and report the fees to be assessed for that year. The wording of the “Report for Collection of Recreation Standby and Services Charges” purports to authorize IVGID’s General Manager to give beach access to Governmental, civic, or social groups of Guests who may not be property owners. There is nothing in the Beach Deed that authorizes such use.

The Beach Deed also expressly provides that this restrictive covenant shall be enforceable by the owners of such parcels and their heirs, successors and assigns. It does not provide IVGID itself or its Board of Trustees with any such authority. The only use rights afforded to the District are with respect to the maintenance and operation of water pumping facilities and other necessary utilities. *Id.* at 2:19-23. There can be no ambiguity as to the meaning of the plain language set forth in the Beach Deed. By all accounts, beach access is to be reserved exclusively for the specifically identified property owners of IVGID, their tenants, and, as determined by the Board, the property owners’ respective guests.

Yet, for some reason, it is my understanding that the Board of Trustees is still not certain whether or not permitting beach access violates the above referenced deed restriction and is set to hire outside counsel for review, of course at an additional cost to IVGID. However, it is unknown why any such review is even needed. The plain and unambiguous language on the face of the Deed provides that the beaches shall be used only by the property owners and their tenants and only for the benefit of the property owners. There is simply no exception that would allow IVGID to provide access to hundreds of employees, former employees or retirees with any access to the beaches at all, let alone lifelong access for those non-resident individuals and their dependents. Quite frankly, allowing such extensive unauthorized beach access to non-residents does nothing more than take away the express and exclusive property rights of the property owners.

In addition to being a blatant violation of the express deed restriction, in allowing such non-resident access to employees, former employees, etc., allowing such unrestricted access opens the door for a whole heap of other problems. For example, is IVGID paying into the restricted beach fund for every single “employee pass” issued to each employee, former employee or dependent, every single year? If not, why not?

///
///
///
///

ATTORNEYS AT LAW

midtownlawreno.com • (775) 786-5800
115 Casazza Drive, Reno, Nevada 89502



Stephanie Rice, Esq.
Stephanie@MLReno.com

If IVGID is not limited in the amount of “guest” passes it issues, then how is IVGID able to limit guest passes for other commercial property owners within the IVGID boundaries? What would happen if every commercial business owning property within IVGID issued a pass for every single employee, each year? Of course, that is clearly not permitted by the plain language or the spirit and intent of the Beach Deed and is likely not even feasible, as the beaches would end up far over capacity and it would again obliterate the express purpose of the Beach Deed restriction.

Has IVGID assessed the liability associated with allowing non-resident employees access to such restricted beaches? Are all pass holders issued by IVGID required to execute liability waivers? Does every single employee who is provided access to the restricted beaches have to submit an application to be approved like all property owners are required to do?

I have reviewed decades of IVGID resolutions, meeting minutes and materials all relating to the Beach Deed over the years and all of that research revealed was that IVGID has evidently held itself to a different standard and different rules than everyone else, despite the fact that the express language of the Beach Deed provides that all beach use and access is to be for the benefit of the property owners. This is a gross violation of IVGID’s fiduciary duties to its members and property owners and reflects that IVGID has engaged in discriminatory practices when it comes to granting its own employees such unlawful privileges, while denying others similarly situated the same privileges.

While it is our sincere hope that IVGID makes the right decision and takes action to immediately end future beach access to all individuals not expressly provided for in the Beach Deed, in the event IVGID proceeds to blatantly violate such express Deed restriction, my clients will have no choice but to take formal legal action to protect their property interests, as the Beach Deed expressly grants them the right to do. It is our hope such action will not be necessary. Your prompt attention to the important and time sensitive matters set forth herein is sincerely appreciated.

Sincerely,

Stephanie Rice, Esq.

CC: Client(s); File.
Enclosure(s): None.

ATTORNEYS AT LAW

midtownlawreno.com • (775) 786-5800
115 Casazza Drive, Reno, Nevada 89502