



LAW DEPARTMENT

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**PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION**

To: Hon. City Council

From: Conrad L. Mallett
Corporation Counsel 

Date: October 30, 2025

Re: Request Related to Kronos Concrete in District 3

Your Honorable Body, through Member Benson, has requested a legal analysis outlining the process and authority available to the City of Detroit to pursue closure of Kronos Concrete, located in District 3. The below analysis has been prepared in response to that request.

I. Question Presented

Is there any authority available to the City to pursue closure of Kronos Concrete?

II. Brief Answer

There is no authority available to pursue closure of Kronos Concrete because its use is permitted under applicable zoning regulation, and it is operating in compliance with City ordinances. Any attempt to close Kronos Concrete without proper legal authority could subject the City to significant financial liability.

III. Discussion

Kronos Concrete is properly zoned for its use. Kronos Concrete is located in an "M4 Intensive Industrial District," which "will permit uses which are usually objectionable..." Section 50-10-101. M4 zoning includes a number of "by right" uses, including high and medium impact manufacturing or processing and trucking terminals. Section 50-10-107(14), (15), (37).

Kronos Concrete is properly permitted. It went through the City's permitting process and received all necessary approvals to construct and operate the facility.

Kronos Concrete is not in violation of any City ordinances. Kronos Concrete is operating under an approved Fugitive Dust Plan under Section 42-2-179 of the 2019 Detroit City Code, and it is in compliance with that Plan. BSEED has recently publicly stated the following:



Kronos is operating legally in an area that is zoned industrial, and we do not have the legal authority to shut it down.

An Environmental Specialist visits the site three times a week and has not observed a violation related to fugitive dust. Kronos has provided a fugitive dust plan, which it appears to be following. An air monitor near the facility has shown no elevated levels.

Based on the foregoing, the City has no basis to pursue closure of Kronos Concrete. Even in other situations where there is an arguable basis, such as where a business constitutes a nuisance, Michigan law disfavors the remedy of closure of a lawful business and instead typically limits the remedy to enjoining or altering objectionable features of its operations. “It is the policy of our courts...to tailor the remedy to the problem, to abate the nuisance without completely destroying the business...Equity will not abate a lawful continuing business as a nuisance when it is possible to eliminate objectionable features...” *Norton Shores v. Carr*, 81 Mich. App. 715, 724 (1978).

Attempting to pursue closure of Kronos Concrete without a legal basis could subject the City to significant liability under theories such as inverse condemnation or due process violations. In *Merkur Steel Supply Inc. v. City of Detroit*, 261 Mich. App. 116 (2004), a commercial tenant on property adjacent to City Airport attempted to expand its operations numerous times over a period of ten years and alleged that the City illegitimately stopped the expansion. The Court called the City’s conduct “blight by planning” and said that, while not condemning the property, it “made it virtually impossible for plaintiff to expand its own business” in case the City decided to expand City Airport. *Id.* at 124-25. The Court said “the city, in over ten years, has thrown ‘roadblock’ after barrier to discourage the expansion of plaintiff’s business.” *Id.* at 125. The commercial tenant filed an inverse condemnation action, the jury awarded \$6.8 million in damages for past losses and future damages of \$3,800 per month, and the Court of Appeals upheld the jury’s verdict.

Here, while the amount Kronos Concrete has invested and its profits are unknown, if the City interferes with its operations without a legal basis, the City could face a damages claim in the range of seven or eight figures.