

**STATE OF MICHIGAN
IN THE THIRD JUDICIAL CIRCUIT COURT**

CROWN ENTERPRISES, LLC,
a Michigan limited liability company,

Plaintiff/Counter-Defendant,

v.

CASE NO. 25-001954 -CH
HON. Muriel Hughes

MATT TOMASZ, an individual,

Defendant/Counter-Plaintiff.

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COUNTER-PLAINTIFF'S AMENDED COUNTER-COMPLAINT

NOW COMES Defendant/Counter-Plaintiff Matthew Tomasz ("Mr. Tomasz"), by and through his attorneys, hereby files this Amended Counter-Complaint against Plaintiff/Counter-Defendant Crown Enterprises, LLC ("Crown"), and alleges as follows:

PARTIES, VENUE, AND JURISDICTION

1. Counter-Plaintiff Matthew Tomasz is an individual residing in Detroit, Wayne County, Michigan, and is the owner of the real property commonly known as 3131 Jerome Street, Detroit, MI 48212.

2. Counter-Defendant Crown Enterprises, LLC is a Michigan limited liability company doing business in Wayne County, Michigan. Crown is owned and/or controlled by members of the Moroun family. At all relevant times, Crown owned real property located at 3401 E McNichols

Rd, Detroit, MI 48212¹ in the Cadillac Heights area of Detroit, Wayne County, Michigan, which is adjacent to Mr. Tomasz's property. Crown leased said property to Kronos Concrete, LLC, ("Kronos") (a subsidiary of Hercules Concrete LLC, which Crown owns) an agent of Crown and/or related entity also owned and/or controlled by members of the Moroun family. These entities operate as a unified enterprise for the purpose of conducting industrial concrete mixing operations on property adjacent to the Matt Tomasz's property.² **See Ex. 1.** The concrete mixing facility operations conducted by Kronos Concrete, LLC on Crown's property constitute a single business operation under common ownership and control of the Moroun family. **See Ex. 2 and Ex. 3.**

3. There is either a direct ownership relationship between Crown and Kronos or in the alternative, at the very least, an agency relationship with Crown as the principal and Kronos as the agent.

4. The industrial concrete mixing plant is commonly known as the "Kronos" ready-mix concrete plant.

5. Venue is proper in Wayne County under MCL 600.1621, and this Court has subject matter jurisdiction over the counterclaims pursuant to MCL 600.605.

GENERAL ALLEGATIONS

The Kronos Concrete Plant and Crown's 11 Acres of Neglected Parcels to the West of the Plant

1. Crown's Kronos facility, a source of immediate concern as it is immediately adjacent to Mr. Tomasz's property and the surrounding neighborhood. In or around 2022, Crown began constructing the Kronos plant without obtaining the necessary city permits or environmental clearances, in violation of Detroit city codes. Crown commenced construction and/or operations

¹ Note: Some sources list Kronos' address as 3405 Gaylord Street, Detroit, MI 48212.

² For these reasons, "Crown" and "Crown/Kronos" and used interchangeably throughout Counter-Plaintiff's Amended Counter-Complaint.

at the concrete batch plant facility in violation of applicable building codes and permit requirements.

2. On June 24, 2022, the City of Detroit Building Division conducted a complaint inspection of the premises and issued a Violation Notice SPL2022-00776 with an inspection result of "FAIL."

See Ex. 4.

3. The violation notice ordered the Crown to "STOP WORK IMMEDIATELY." It commanded Crown to "stop all work in progress, dismantle and remove the illegal work, and restore this building to its original condition prior to starting construction."

4. The violation notice cited multiple code violations, including failure to secure required permits and pay required inspection fees, with a compliance deadline of June 27, 2022. The violation notice specifically warned that "FAILURE TO CORRECT VIOLATIONS, PROVIDE RESTITUTION AND REQUEST REINSPECTION BY THE COMPLIANCE DATE WILL BE CAUSE FOR COURT ACTION."

5. Crown subsequently obtained permits after the fact and proceeded to open and operate the Kronos concrete plant.

6. In addition to the dust generated by the concrete plant itself, Crown has created a second major source of particulate pollution in the community: a cluster of vacant, debris-strewn lots resulting from Crown's demolition of all homes that stood in what was a roughly 11-acre neighborhood between Gallagher, Jerome, Mitchell and McNichols.

7. Crown (through its affiliated entities) has, for years, been purchasing residential properties in the immediate vicinity of the Kronos site. By 2023, Crown had acquired over one hundred residential lots, some of which were located in Cadillac Heights. Many of these houses were left vacant, open to trespass, and in a state of disrepair.

8. As of 2024, numerous Crown-owned houses near the Kronos plant were documented to be blighted and open to the elements (missing doors, windows, etc.)

9. Shortly thereafter, Crown proceeded to demolish many of these structures. By the spring of 2024, the homes had been torn down, leaving empty lots in their place.

10. Accordingly, the Tomasz Family has also been subjected to continuous, unreasonable disturbances and damages due to the roughly eleven Crown-owned neglected acres immediately to the West of Kronos.

11. After the demolition of homes, Crown proceeded to spray industrial herbicides on the entirety of these parcels, thereby eliminating all natural windbreaks and ground cover that prevent soil erosion and dust formation. ***See Ex. 5.***

12. Notably, the parcels that make up the current Kronos facility were formerly part of a Moroun-owned truck terminal, which previously operated with significantly less impact on the surrounding community.

13. In contrast, nearly all of the approximately eleven acres located immediately to the west of the facility - now consisting of vacant lots cleared by Crown – were historically residential.

14. The industrial operations conducted by Kronos on Crown-owned property have intensified significantly since Kronos began operations, resulting in new and substantially increased levels of noise, dust, vibration, and other industrial disturbances that were not present in the previous Moroun-owned truck terminal.

15. Bright industrial lighting from the facility floods into Mr. Tomasz's home at night, as Crown's property lacks adequate buffering or shielding.

16. Chemical odors and exhaust fumes from the trucks are noticeable on Mr. Tomasz's property.

17. Mr. Tomasz has described the living conditions near the plant as “maddening” and “unbearable,” with his Family developing persistent coughs likely due to inhaling the dust-laden air while Crown’s facility is in operation.

18. Mr. Tomasz has repeatedly raised concerns with Crown and local authorities about these issues, but has received little to no relief.

19. During the spring and summer operations, dust and airborne debris emanating from the plant and the neglected lots visibly accumulate on Mr. Tomasz’s window screens, porch, and yard.

20. Mr. Tomasz has been forced to keep his young child indoors, as he fears the dust and pollution will endanger the child’s health if they play outside.

21. Mr. Tomasz states his Family, including a newborn son, has developed respiratory problems, such as persistent coughs, as a result of these nuisances.

22. The Family can no longer enjoy their own yard or neighborhood amenities.

Encroachment into a Residential Community

23. The residential character of the Cadillac Heights neighborhood was established organically in the 1920s and maintained continuously for decades by working-class Italian, Polish, and Southern European families before the City of Detroit (“City”) retroactively imposed industrial zoning classifications in the 1960s, coinciding with the period when the Morouns first obtained property in the area.

24. Rather than reflecting an overwhelming preexisting industrial character, heavy industrial zoning was used here as a deliberate tool to drive out residents that federal redlining maps had already marked as undesirable. Federal redlining maps had designated this residential area as “4th grade” - the lowest rating - specifically because the “[t]ype [of] population makes 4th grade area,”

citing residents' immigrant backgrounds and modest incomes of \$800-1800 as characteristics deemed them and their investments unworthy of protection.

25. The City's willingness to sacrifice this neighborhood through industrial zoning reflected the same discriminatory attitudes that led to its redlining, treating a stable working-class community as expendable because its residents lacked political power.

26. Upon information and belief, the City's systematic effort to eliminate this residential neighborhood on behalf of Crown has only intensified in recent years, with the Housing and Revitalization Department creating a monopoly that prevents anyone except the Morouns' Crown Enterprises from acquiring Detroit Land Bank properties. **See Ex. 6.**

27. This was done by designating the area as a “Project Hold Area” since at least 2020. This designation has artificially depressed home values and quality of life for remaining residents, who find themselves trapped in a neighborhood where the City has deliberately eliminated the normal real estate market to benefit a single industrial slumlord.³

28. Detroit's practice of overlaying industrial zoning onto established residential neighborhoods, followed by implementing hold policies that systematically transfer property ownership to preferred industrial interests, represents the culmination of decades of municipal policies designed to sacrifice poor and working-class communities for the sake of speculative development.

29. Industrial zoning was not applied because heavy industrial use was appropriate or compatible with the neighborhood's character; instead, it was imposed and reinforced through anti-

³ Project Hold Areas: where City Revitalization Offices have agreements in place barring or restricting the sale of DLBA property in that geographic area; *See* Land Reuse Program, <https://buildingdetroit.org/land-reuse-programs> (Last viewed June 2, 2025).

competitive land banking practices to enable exactly the type of neighborhood destruction that Crown now claims is their legal right.

30. However, despite any assertions that Crown's operations are permitted by M4 zoning, the actual operations conducted by Crown's agent/tenant, Kronos, create unreasonable interference with the Tomasz Family's use and enjoyment of their property.

31. An area's industrial zoning designation does not negate its residential character when residential structures are present and occupied by inhabitants, as the actual use and occupancy of property may differ from its zoning classification.

32. The remaining residents of Cadillac Heights (including Mr. Tomasz) are now forced to battle daily against pollution and the loss of their neighborhood's livability.

33. Since its opening, the Kronos concrete plant has caused and continues to cause substantial negative impacts on the surrounding community, and on Mr. Tomasz's property in particular.

Fugitive Dust

34. The Kronos facility generates dust during the handling of its cement, sand, and aggregate. This dust is not fully contained on-site; instead, fugitive dust escapes into the air and settles onto neighboring properties.

35. Crown's fugitive dust is also heavily produced by the aforementioned cluster of vacant, debris-strewn lots resulting from Crown's mass demolition of homes in Cadillac Heights and purposeful destruction of ground-covering grass and erosion-controlling trees.

36. Upon information and belief, Crown did not adhere to proper demolition procedures or post-demolition site remediation standards when it removed the homes in Cadillac Heights.

37. Most of the demolished houses were older homes (many decades old, predating modern building codes). These structures likely contained hazardous materials common in older construction, such as lead-based paint and asbestos-containing insulation or siding.

38. Standard practice and Detroit city requirements dictate that before demolition, accessible asbestos must be safely removed, and that during demolition, dust must be controlled (typically by continuously wetting the structure and debris).

39. Contractors demolishing older homes are also expected to follow lead-safe practices to minimize the release of lead-paint dust, given that homes built before 1978 almost invariably have lead-based paint within.

40. If proper precautions are not taken, tearing down such structures can generate tremendous amounts of dust contaminated with lead, asbestos, polychlorinated biphenyls (PCBs), and other toxins.

41. Dust can travel through the air and be inhaled in the short term, then settle on neighboring properties or infiltrate nearby homes, creating a lingering source of exposure.

42. Mr. Tomasz believes that Crown's demolition of the Cadillac Heights houses did not include the comprehensive environmental safeguards that are required for safe demolition.

43. Upon information and belief, there is no indication that Crown performed thorough pre-demolition hazardous material abatement on each home (such as removing all asbestos or stripping lead-painted components).

44. During the demolitions, Crown likewise appeared to neglect effective dust suppression measures; neighbors did not observe the constant water spraying that the Detroit Demolition Department mandates for its contractors.

45. Consequently, the demolition activities themselves likely released clouds of debris-laden dust into the air.

46. Moreover, after knocking down the structures, Crown failed to properly stabilize and remediate the vacant lots.

47. Industry's best practices and local regulations require that, after demolition, a site should be graded with clean fill and then covered or treated (for example, seeded with grass, covered in mulch or gravel, and sometimes fenced in) to prevent soil erosion and dust migration.

48. To this day, Crown has still not performed these steps on any of the roughly eleven acres it has cleared. Instead, the parcels were left in a raw, unrestored state, with piles of dirt or rubble remaining in some places. The ground consists largely of bare soil and dust-prone debris.

49. No new pavement, vegetation, water sprinkling system, or even temporary mulch cover was applied to prevent the spread of dust.

50. As a direct result of Crown's acts or omissions, the vacant lots now act as a constant generator of fugitive dust.

51. In dry weather, even a slight breeze will pick up dust from the exposed soil on these parcels.

52. Mr. Tomasz personally observes that whenever winds blow through the area, visible plumes of dust lift off Crown's lots and drift into the surrounding neighborhood, including his property.

53. Mr. Tomasz witnessed dust from the vacant lots swirling onto his yard and settling on his house, vehicles, patio, and outdoor furniture. The dust from the lots is often fine and powdery, light-colored like the pulverized remains of concrete or paint.

54. It accumulates on surfaces daily, requiring constant cleaning. Mr. Tomasz has photo and video evidence documenting these dust events, which show the vacant Crown-controlled parcels as the origin of large dust plumes that then blow into adjacent residential areas.

55. The dust mentioned above is also likely contaminated with industrial herbicides used to kill all the vegetation, many of which are known carcinogens. *See Ex. 7.*

56. There have been no barriers in place to contain or limit this dust; the lots are unfenced and open, allowing unrestricted wind erosion. Every day that these lots remain unstabilized, they actively contribute to particulate pollution in Cadillac Heights.

57. Mr. Tomasz is forced to keep his windows closed to prevent dust intrusion. Often, a visible film of concrete dust covers Mr. Tomasz's porch, vehicles, and outdoor furniture. This persistent dust fallout has substantially interfered with the use of his property and created ongoing cleanup burdens.

58. The creation of this vegetation-free dust bowl on Moroun-owned parcels, in combination with the concrete plant operations, demonstrates a pattern of disregard that goes far beyond the concrete plant itself and affects the entire neighborhood.

59. Neighbors in Cadillac Heights have already reported respiratory problems: for example, one resident suffered three sinus infections in a single year, likely due to inhaling the Kronos dust.

60. One environmental chemist observing the situation noted that near-invisible silica dust can cause lung damage similar to that caused by asbestos exposure.

61. Crown/Kronos also uses slag in their mixture, a byproduct of steel production that often contains Manganese, a potent neurotoxin, and Cadmium, a heavy metal that can cause brittle bones and kidney problems.

62. Mr. Tomasz is deeply concerned that the dust invading his home is adversely affecting his Family's health. He and his Family must limit time outdoors and wear masks when doing yard work due to the airborne dust.

Excessive Noise, Truck Traffic, and Vibrations

63. Crown's operations at Kronos create loud and frequent noise. Concrete batching involves heavy machinery (conveyors, cement mixers, front-end loaders) that produce constant mechanical noise.

64. Dozens of heavy trucks travel to and from the site each day, rumbling and using loud diesel engines and air brakes.

65. Heavy trucks haul raw materials (such as sand, gravel, and cement) in and transport concrete out.

66. These trucks operate on the neighborhood streets at all hours, resulting in increased congestion and safety hazards.

67. The weight and frequency of the trucks have caused noticeable vibrations; Mr. Tomasz can feel his house shake when fully loaded semi-trucks drive by.

68. The constant flow of large trucks also generates additional road dust and diesel fumes, exacerbating the air quality issues.

69. The presence of these industrial trucks on residential streets has created safety concerns for pedestrians and children in the area. It has caused accelerated wear and tear on the public roads.

70. This commotion often begins early in the morning (before or at dawn) and continues throughout the day.

71. The noise penetrates into Mr. Tomasz's home, routinely disturbing his sleep and daily activities.

72. What was once a quiet residential street now sounds like an active construction zone.

73. Neighbors have described the living conditions as “unbearable” due to the relentless noise and industrial activity. Mr. Tomasz and his Family find it difficult to hold conversations outside or enjoy their home in peace because of the constant noise from the plant.

74. In short, Crown’s heavy trucking associated with Kronos has fundamentally disrupted the peace, safety, and infrastructure of the community.

Stormwater Runoff and Flooding

75. In addition to dust and noise, the Crown/Kronos development has caused flooding and water intrusion problems on Mr. Tomasz’s property, as well as the neighborhood.

76. Crown cleared and paved a large area of land for the plant, altering the ground surface and drainage patterns.

77. During rainstorms, stormwater that was once absorbed by the soil or vegetation now runs off from the Kronos site in significant volume.

78. This runoff flows onto adjacent properties, including Mr. Tomasz’s yard.

79. Since the plant became operational, Mr. Tomasz’s yard has repeatedly experienced pooling water and flooding after heavy rains.

80. On multiple occasions, water has seeped into his basement, causing damage, where no such flooding occurred prior to the development of the concrete plant and the eleven acres of neglected lots.

81. These flooding incidents are directly attributable to Crown/Kronos’ failure to install proper stormwater management or retention infrastructure when building the facility, as well as causing more surface runoff and reduced natural water infiltration by killing all vegetation that used to absorb rainwater and whose root systems helped soil retain moisture.

82. Crown/Kronos' acts or omissions allowing for concentrating stormwater onto neighbors' properties have unreasonably and materially harmed Mr. Tomasz's use of his property.

Illegal Tree Removal

83. Crown removed over thirty mature trees along Jerome, which were city-owned trees on public property without proper permits or authorization. **See Ex. 8.**

84. This illegal tree removal violated City of Detroit ordinances and regulations designed to protect City-owned trees and property.

85. The removed trees had provided a natural buffer between the industrial site and the homes in Cadillac Heights – they helped absorb dust, block light pollution, dampen noise, and control stormwater. By unlawfully cutting down these trees, Crown eliminated a critical environmental safeguard.

86. Crown's disregard for the law in destroying these trees further evidences its willful neglect of the surrounding residents' environment and quality of life.

Loss of Use and Enjoyment of Home

87. The cumulative effect of the dust, noise, truck traffic, and flooding is that Mr. Tomasz can no longer fully use or enjoy his own home and yard. The quality of life in the neighborhood has plummeted since Kronos opened.

88. Crown/Kronos' concrete plan and decision to maintain eleven acres of adjoining lots in a constant state of disrepair have also diminished Mr. Tomasz's property value and made his home less livable.

89. The neighborhood's reputation and aesthetics have suffered due to the industrial blight.

90. Mr. Tomasz has invested in his property, intending it to be a long-term home for his Family, but Crown's actions have made him question whether they can continue living there if nothing changes.

91. The wrongful acts of Crown have thus caused both tangible property damage (e.g., dust cleanup costs, water damage) and intangible harms (loss of enjoyment, stress, annoyance, and community decay).

Community-Wide Impact and Notice to Crown

92. The harms caused by the Crown/Kronos plant are not limited to Mr. Tomasz.

93. Numerous other residents in Cadillac Heights have voiced complaints and raised concerns about their health and environment as a result of the Crown/Kronos facility.

94. Neighbors have reported similar issues, including dust coating their homes and vehicles, excessive noise, and concerns about respiratory illnesses.

95. Community members, including Mr. Tomasz, have brought these issues to the attention of Crown and government authorities. Residents (including Mr. Tomasz) have spoken out at public meetings and City Council sessions, urging action against the concrete plant's operations.

96. A local environmental coalition was approached by neighbors seeking help to organize and put pressure on the City and Crown/Kronos after complaining repeatedly about the noise and dust, but without any results.

97. Despite numerous complaints and readily observable conditions, Crown/Kronos has failed to take adequate steps to mitigate the problems.

98. Crown/Kronos is fully aware (and has been aware) that its operations are causing significant interference and harm to the Cadillac Heights community. Yet, it continues those operations in the same harmful manner.

Crown's Wrongful Conduct and the Interplay with the City of Detroit

99. Crown's development and operation of the Kronos plant demonstrate a willful and negligent disregard for the rights of Mr. Tomasz and his neighbors.

100. Crown chose to build and operate a heavy industrial installation in the midst of a residential neighborhood, bypassing legal requirements and ignoring foreseeable consequences.

101. It violated city permitting rules, environmental ordinances, and land-use regulations at the outset, then, once operating, allowed its facility to emit dust, noise, and runoff into the community.

102. Crown and its affiliated entities had eighty-four outstanding blight violations totaling \$19,870 at the time permits were issued, according to City of Detroit records.

103. Of particular significance, twenty-one blight violations existed for Crown-affiliated entities at the time Crown applied for building permit BLD2022-01173, with an additional forty-one violations occurring before permit issuance.

104. Similarly, twenty-seven violations by Crown-affiliated entities were outstanding both before Crown's application for permit BLD2022-00244 and an additional twenty-seven before its issuance.

105. These outstanding blight violations should have prevented Crown from receiving building permits under Detroit City Code provisions adopted pursuant to Michigan Zoning Enabling Act § 406, which prohibits explicitly permit issuance to entities with delinquent blight violation fines.

106. Crown's pattern of accumulating blight violations while claiming full legal compliance demonstrates a deliberate disregard for City ordinances and regulatory requirements,

107. Crown has breached its duty to be a good neighbor and to comply with laws designed to protect the public and the environment.

108. Crown has demonstrated a well-documented pattern of accumulating blight violations that the City of Detroit has systematically chosen not to enforce due to Crown's economic and political leverage.

109. Upon information and belief, the City of Detroit has created powerful disincentives for meaningful enforcement against Crown due to Crown's ability to threaten major economic deals, as demonstrated when city officials acknowledged that removing any parcels from Crown's land-swap demands would interfere with the deal that allowed for the construction of the Stellantis plant.

110. The City's abandonment of the Cadillac Heights neighborhood to Crown control is evidenced by:

- a. The City's failure to downzone residential lots;
- b. the land-swap deal;
- c. the City's decision to grant Crown building permits after illegal construction rather than pursuing penalties; and
- d. the City's classification of the surrounding residential area through the Detroit Land Bank, effectively facilitating Crown's systematic acquisition and control of neighborhood properties.

111. Crown's November 2022 settlement covering 1,023 tax parcels for only \$50,000 demonstrates that when the City does acknowledge Crown's violations, it accepts nominal payments that make regulatory compliance economically meaningless for Crown.

112. The City's pattern of granting Crown favorable treatment - from permit approvals despite legal ineligibility to mass violation forgiveness - creates an environment where Crown operates with effective immunity from meaningful regulatory enforcement, explaining why Crown

can generate dust, noise, and other environmental impacts while claiming clean regulatory records through the City's deliberate non-enforcement.

113. Crown's actions or omissions have been knowingly, recklessly, and in conscious disregard of the substantial likelihood of injury to others.

114. As a direct result of Crown's actions and omissions, Mr. Tomasz has suffered—and continues to suffer—significant harm, as detailed above.

115. Accordingly, Mr. Tomasz brings this Counter-Complaint seeking relief for the harms caused by Crown, under the causes of action set forth below. All preceding paragraphs are incorporated by reference into each of the following Counts as though fully restated therein.

**COUNT I – PRIVATE NUISANCE (COMMON LAW NUISANCE AND
NUISANCE PER SE)**

116. Counter-Plaintiff Matthew Tomasz realleges and incorporates the preceding paragraphs by reference as if fully set forth herein.

117. Crown's operation of the Kronos concrete plant has created a private nuisance with respect to Mr. Tomasz's property. Crown has substantially and unreasonably interfered with Mr. Tomasz's use and enjoyment of his property through the dust, noise, vibrations, truck traffic, and flooding emanating from the Crown/Kronos site.

118. The dust and particulate matter emanating from Crown's property (both the Kronos facility and the vacant lots) settle onto Mr. Tomasz's land and home, interfering with the comfortable enjoyment of life and property.

119. Mr. Tomasz and his Family are prevented from normal use of their yard and are forced to keep windows closed and remain indoors to avoid exposure.

120. The dust fallout is excessive to the point of materially diminishing the value, comfort, and safety of Mr. Tomasz's residence.

121. The interference with Mr. Tomasz's property is substantial in that it has caused significant actual discomfort, inconvenience, and damage.

122. The nuisance created by Crown is continuous and ongoing. It is not a one-time or transient event, but rather a persistent interference that occurs daily (or whenever weather conditions allow dust to travel).

123. Crown has not taken adequate steps to abate the dust or other impacts, despite being aware of repeated complaints from residents and the obvious presence of dust leaving its properties.

124. Crown's conduct is intentional or at least negligent in that Crown knows its activities generate dust and has chosen to continue operations and leave the lots unstabilized in conscious disregard of the consequences.

125. A reasonable person in Mr. Tomasz's position would find it highly offensive and untenable to live with constant dust infiltration, loud noise at all hours, large trucks shaking the home, and recurrent flooding.

126. This is far beyond any minor annoyance; Crown/Kronos' activities have rendered Mr. Tomasz's home environment unhealthy, disturbing, and unsafe.

127. The interference is also unreasonable because the gravity of harm to Mr. Tomasz outweighs any utility of Crown's conduct at this location.

128. Crown's concrete plant could have been operated with better controls or in a more appropriate location, but instead, Crown chose to impose its industrial operations on a residential neighbor without adequate safeguards.

129. No resident should be expected to endure the level of pollution and disturbance that Crown/Kronos has caused here. Moreover, much of Crown/Kronos' conduct (such as violating permit requirements and ordinances) is unlawful, which in itself is evidence of unreasonableness.

130. Crown/Kronos' actions and omissions in maintaining this nuisance were done intentionally or with negligent disregard of Mr. Tomasz and Family.

131. Crown/Kronos intentionally located and ran the plant and neighboring lots in this manner, and even after receiving numerous complaints, it has intentionally continued its operations without meaningful mitigation.

132. Detroit's City Council specifically recognized such dust as a serious harm when it passed the fugitive dust control ordinance in 2024.

133. Under Michigan's environmental regulations, the type of emissions Crown is allowing (dust causing health hazards and property interference) are explicitly unlawful.

134. To the extent that Crown's activities violate statutes or regulations designed to protect the public from pollution (local dust control laws), those violations render Crown's actions a nuisance per se.

135. Here, Crown's failure to contain pollutant dust is inherently unlawful and unreasonable.

136. As a direct and proximate result of this private nuisance, Mr. Tomasz has suffered and continues to suffer damages.

137. These damages include, but are not limited to, loss of enjoyment of his property and normal life activities; physical discomfort and property damage from dust and flooding; emotional distress from living in an environment of constant pollution and noise; and diminution in property value.

138. Crown is liable to Mr. Tomasz for creating and maintaining a private nuisance. Mr. Tomasz is entitled to damages for the harm to his use and enjoyment of his property. He is also entitled to injunctive relief requiring the Crown to stop operations or, at the very least, abate the nuisance (for example, by ceasing or drastically modifying operations that produce dust, noise, and other intrusions).

COUNT II – NEGLIGENCE

139. Counter-Plaintiff Matthew Tomasz realleges and incorporates the preceding paragraphs by reference as if fully set forth herein.

140. Crown/Kronos owed a duty of care to Mr. Tomasz to conduct its operations in a reasonably prudent manner so as not to cause foreseeable injury to others.

141. This duty includes, at minimum, complying with applicable laws and regulations, obtaining required permits, implementing proper pollution controls (for dust, noise, and water runoff), and taking reasonable steps to avoid harming adjacent property owners.

142. Crown/Kronos breached its duty of care. Crown/Kronos' acts and omissions as described above fell below the standard of reasonable care in multiple ways, including but not limited to:



- a. Excessive and unreasonable noise at the facility, especially during early morning or late-night hours outside the ordinarily permitted timeframe for industrial noise (before 6:00 a.m. and after 10:00 p.m.), thus disrupting nearby Mr. Tomasz and his Family's rest.
- b. Inadequate dust control measures, allowing cement dust and particulate matter to escape the facility and contaminate the surrounding homes and yards. Crown/Kronos failed to install or utilize proper filtration, sprinkling, or enclosures, including during the demolition of neighboring properties, which would minimize dust emissions.
- c. Negligent demolition and site restoration: Crown failed to follow established protocols during the demolition of Cadillac Heights homes. This includes (1) not thoroughly abating hazardous materials like asbestos in advance; (2) not using

proper dust suppression (e.g., continuous water spray) while demolishing structures and handling debris; and (3) neglecting to backfill, grade, and stabilize the lots post-demolition properly. Any reasonable demolition contractor in Detroit's federally recognized demolition program would have taken extensive precautions to control dust and protect neighbors, yet Crown's approach fell below this standard of care.

- d. After demolition, Crown left conditions it knew (or should have known) were dangerous, namely, exposed contaminated soil and debris. Crown's own knowledge of the age of the homes and their vandalized, open state (with peeling lead paint, etc.) should have prompted soil testing or at least covering the lots. By leaving the lots barren, Crown breached its duty to act as a reasonable landowner, who would secure and maintain its property to prevent harm to others—failing to properly handle hazardous materials like asbestos and lead paint during demolition and preventing the escape of dust off-site.
- e. Improper lighting and failure to buffer light pollution, by using high-intensity floodlights or similar illumination that shines into neighboring properties at night, rather than shielding lights or confining lighting to its own premises.
- f. Allowing water runoff and flooding onto adjacent properties. During and after construction, Crown altered the terrain and removed vegetation in a manner that channeled stormwater onto Mr. Tomasz's land, but Crown failed to implement drainage systems or retention basins to prevent flooding of neighboring yards and basements.
- g. Failing to prevent or filter chemical overspray and particulate emissions. For example, Crown routinely washes out concrete mixer trucks and equipment in the open, causing slurry water and chemical-laden mist to disperse beyond its property. Crown did not erect barriers or use technology to contain these aerosols, leading to deposits on Mr. Tomasz's property.
- h. Removing trees and foliage that provided a natural barrier, without replacement. Crown cleared numerous mature trees from, upon information and belief, city lots during construction, which had previously helped block noise, dust, and light. The removal of these trees increased Mr. Tomasz's exposure to pollution and demonstrated a lack of reasonable care for impacts.



Crown's Kronos facility operates roughly 300 feet from Matthew Tomasz's property. Dust and fine particulate debris coat the public sidewalk and street near Crown's facility. Matthew Tomasz regularly finds layers of gray dust on his property, originating from Crown's unpaved lots and concrete operations. This dust is carried by the wind and traffic, settling on Matt Tomasz's home, vehicles, and outdoor surfaces. The accumulation shown above illustrates the severity of the dust problem, a nuisance that poses health risks and diminishes the Family's use and enjoyment of their property.

143. Crown knew or should have known that its conduct posed a considerable risk of nuisance and injury to nearby residents, yet it proceeded in reckless disregard of that risk.

144. Crown's negligence has directly and proximately caused harm to Mr. Tomasz.

145. But for Crown's breaches of duty, Mr. Tomasz would not be experiencing ongoing dust pollution, noise disturbances, property flooding, and the other damages outlined above.

146. It was foreseeable that failing to control concrete dust or leaving loose contaminated soil would result in exactly this kind of migration.

147. There were no superseding causes; normal environmental factors like wind and gravity only carried out their natural role on the hazardous conditions Crown/Kronos created.

148. The injuries to Mr. Tomasz were a foreseeable result of Crown's negligence. It was entirely predictable (and indeed predicted by community members) that placing a concrete batch plant in a residential area without proper controls would cause exactly these kinds of problems.

149. As a result of Crown/Kronos' negligence, Mr. Tomasz has suffered damages, including property damage, costs of remediation/cleanup, loss of use and enjoyment of his home, out-of-pocket expenses (such as cleaning or repairs due to dust and water damage), and emotional distress and annoyance. These damages continue to accrue as long as Crown/Kronos' negligent operation persists.

150. Crown/Kronos' conduct was not merely careless but showed wanton and willful disregard of the likelihood of harm to its neighbors.

151. Crown/Kronos is a sophisticated business entity that knew of the risks its operations posed. It consciously chose to skirt rules (building without permits, delaying the clean-up of blight, etc.) and prioritize cost or convenience over the safety of its neighbors.

152. Even after being put on notice of the dust problems, Crown/Kronos brazenly continued its practices without meaningful improvement. This level of indifference to the obvious harm being caused exhibits a reckless disregard for the consequences, justifying an award of exemplary damages to the extent permitted by law.

153. Mr. Tomasz specifically pleads gross negligence to support any higher degree of culpability finding and related damages the Court or jury deems appropriate.

154. Because Crown chose profit and expedience over safety and legality, enhancing the egregious nature of its negligence. Accordingly, in addition to compensatory damages, Mr. Tomasz seeks exemplary damages to the extent permitted by law, in order to compensate for the indignity and hardship he has endured fully and to deter such conduct.

155. Mr. Tomasz is entitled to judgment against Crown for negligence, awarding all damages sustained by him in an amount to be determined at trial, as well as appropriate injunctive relief to prevent ongoing and future harm.

COUNT III – TRESPASS (PHYSICAL INVASION OF PROPERTY)

156. Counter-Plaintiff Matthew Tomasz realleges and incorporates the preceding paragraphs by reference as if fully set forth herein.

157. Mr. Tomasz has the right to exclusive possession and use of his real property. Crown/Kronos, by its actions and omissions has unlawfully entered upon or caused substances to enter upon Mr. Tomasz's property, constituting a trespass.

158. Specifically, Crown/Kronos has caused physical particulates and pollutants (including concrete dust, silica dust, and debris) to be deposited onto Mr. Tomasz's land and home without permission.

159. These dust and particulate materials originated from Crown/Kronos' operations and frequently travel beyond Crown's property line, settling on Mr. Tomasz's property.

160. Each particle is a tangible object that Crown has propelled or allowed to escape onto the property, resulting in a physical invasion.

161. Crown has also caused water intrusion onto Mr. Tomasz's property by altering drainage and allowing stormwater to flow from the Kronos site into Mr. Tomasz's yard and basement.

162. This unwanted influx of water is another form of physical invasion caused by Crown/Kronos' activities.

163. These intrusions (dust, debris, and water) interfere with Mr. Tomasz's possessory interest in his land.

164. Crown/Kronos did not have consent to deposit substances on Mr. Tomasz's property, and Mr. Tomasz has not consented to such invasions.

165. Crown/Kronos' trespasses were the direct result of intentional and/or negligent conduct. Crown/Kronos knows that dust and water routinely leave its property as a result of its operations, yet it failed to prevent it.

166. Thus, Crown/Kronos has either intentionally permitted these invasions (by continuing operations despite knowing the consequences) or negligently failed to prevent them.

167. As a proximate result of Crown/Kronos' ongoing trespasses, Mr. Tomasz has suffered harm, including contamination and soiling of his property, the burden and expense of cleanup, property damage (e.g., water damage), and loss of use and enjoyment of the affected areas of his land.

168. Crown/Kronos' actions in operating the Kronos plant and managing (or failing to manage) the vacant lots were done with knowledge – or at least with foreseeable certainty – that dust and debris would be emitted and would travel beyond property lines. Crown had been notified of dust escaping the Kronos site through resident complaints and city inspections, and it is a matter of common knowledge and natural law that wind will carry loose dust from bare earth. Thus, Crown knew or should have known that its conduct would result in particulate materials entering the property of Mr. Tomasz and others. By continuing such conduct in the face of this knowledge (and by not taking effective preventive measures), Crown/Kronos has, in effect, acted intentionally with respect to the trespass. Even if Crown did not subjectively desire to trespass, it has deliberately maintained conditions that it knows cause an intrusion of matter onto neighboring land.

169. The invasion of dust and particles has directly harmed Mr. Tomasz's property. The settling dust soils and contaminates his premises, requiring extra cleaning and potentially causing

lasting damage (for example, abrasive concrete dust can degrade paint or finishes; lead dust can poison the soil; asbestos fibers, if present, could necessitate specialized decontamination). Mr. Tomasz has lost the ability to fully use his property as he wishes because of the constant need to guard against and remove the invasive dust. This is a harm distinct from the general public's, as it affects the specific property of Mr. Tomasz in a physical manner.

170. Each day that dust from Kronos or the vacant lots lands on Mr. Tomasz's property, a new trespass occurs.

171. Mr. Tomasz is entitled to relief for this ongoing violation of his property rights, including damages (for the diminution in value of his property, the costs of cleanup, and the loss of use and enjoyment), as well as injunctive relief to prevent continued invasions.

172. The injunctive relief sought in the above paragraphs is equally applicable here, as it would halt the continuing trespasses by stopping the physical intrusions at their source.

173. Additionally, because the trespasses are ongoing, Mr. Tomasz seeks injunctive relief ordering Crown to cease the invasions (for example, by stopping dust emissions beyond its property and controlling runoff) and to remediate any remaining contamination on his property.

COUNT IV – NEGLIGENCE (PER SE - VIOLATION OF STATUTES/ORDINANCES)

174. Counter-Plaintiff Matthew Tomasz realleges and incorporates the preceding paragraphs by reference as if fully set forth herein.

175. At all relevant times, Crown was subject to various statutes, regulations, and ordinances enacted for the safety and protection of the public and neighboring property owners. These laws imposed specific duties on Crown with regard to the construction and operation of the Kronos concrete plant.

176. Crown violated multiple such laws, including but not limited to:

a. Detroit Building and Zoning Codes – by commencing construction of the concrete plant without the required permits and approvals, Crown violated city building codes and zoning ordinances. These provisions are intended to ensure safe and lawful development and to protect neighbors from unauthorized land uses.

b. Detroit Fugitive Dust Ordinance – Detroit has enacted an ordinance requiring industrial facilities to control and limit fugitive dust emissions (in order to protect air quality and public health). Crown has failed to comply with this ordinance, as evidenced by the regular migration of dust off-site onto residential properties. (Even if city inspectors have not “substantiated” emissions during limited inspections, the lived experience of residents and the visible dust layers demonstrate ongoing non-compliance.) The dust control laws were designed to prevent exactly the kind of harm (dust inhalation and property soiling) that Mr. Tomasz is suffering. Fugitive Dust and Air Pollution – Emitting fine particulate matter (dust) beyond the boundaries of its property, in direct contravention of local environmental regulations (Detroit City Code § 42-2-176⁴, requiring prevention of visible dust off-site).

c. Noise Control Ordinances – The City of Detroit imposes limits on excessive noise, particularly in or near residential districts, during certain hours. Crown’s operations have generated noise far above residential standards and at inappropriate hours (early mornings), in violation of these noise regulations. These rules aim to protect residents’ peace and health. Operating heavy equipment, trucks, and industrial processes at hours and volumes forbidden by Detroit’s noise control ordinance (e.g., conducting loud loading and unloading of materials well before 7:00 A.M., in a residential-adjacent zone, in violation of Detroit City Code §§ 16-1-12 and 16-1-13(b)(2))⁵;

⁴ Detroit City Code § 42-2-176; Prohibits a facility owner from causing or allowing visible fugitive dust to be emitted beyond the property line of the facility. Crown is in clear violation of this dust control ordinance, as evidenced by the coating of dust on neighboring properties. (See also § 42-2-178 requiring Crown to have an approved Fugitive Dust Plan – which, on information and belief, Crown lacks or has ignored.)

⁵ Detroit City Code §§ 16-1-12, 16-1-13; General prohibition against unreasonably loud noise, and specific prohibition against the loading or unloading of vehicles in a residential area between 10:00 p.m. and 7:00 a.m. (absent exemption). Crown’s predawn truck activity violates these provisions.



Kronos: Crown routinely engages in loud, heavy-duty operations during late-night and early-morning hours when such noise is unlawful. Matt Tomasz has been woken as early as 4:30 A.M. by the sounds of trucks, machinery, and banging from Crown's property, well outside the 7:00 A.M. to 10:00 P.M. window permitted by the Detroit Noise Ordinance. Crown also utilizes high-intensity flood lighting throughout the night, which shines directly into Matthew Tomasz's home. This glare creates constant night-time illumination of the area, contrary to City lighting standards that require minimizing off-site light spillover. The removal of the buffer of trees (described above) has further exacerbated the intrusion of noise and light into the residential community.

d. Light Pollution – Failing to shield or direct its facility lighting, and instead allowing excessive glare and light trespass into the neighborhood, contrary to Detroit zoning illumination standards (Detroit City Code § 50-14-418)⁶;

e. Tree Removal and Land Clearing Regulations – Detroit ordinances require permits and impose restrictions for removal of certain trees and woodland in the course of development. Crown's unauthorized clear-cutting of mature trees violated such provisions, which exist to prevent environmental degradation and protect community aesthetics and stormwater control;

⁶ Detroit City Code § 50-14-418; Lighting – General Illumination Standard, requiring that all reasonable measures be taken to ensure off-site spillover lighting and “nightglow” are minimized. Crown's use of unshielded floodlights creates prohibited light trespass onto neighboring properties.

f. Ground Treatment/Environmental Maintenance – Keeping large areas of its property in an unpaved, unvegetated condition and spraying harmful chemicals, contrary to Detroit ordinances that mandate proper ground cover and prohibit such unchecked use of herbicides (City Code § 50-14-3267). **See Ex. 7.**

Tree Removal Crown or its agents undertook the unauthorized removal of an estimated thirty-two mature trees owned by the City of Detroit that had lined the edge of Jerome Street behind the Subject Property. These public shade trees previously



served as a natural sound and sight buffer between the residential street and Crown's industrial lot. Sometime in or around 2024, Crown felled and removed all these trees without permission, leaving behind stumps and a barren strip of land. Crown did not obtain any permit or authority from the City to destroy these trees, in violation of city ordinances protecting shade trees on public property. The loss of this green barrier has left the neighborhood fully exposed to the impacts of Crown's operations (dust, noise, and light), and has also degraded the aesthetic character of the block.

g. Environmental Regulations – To the extent Crown claimed any exemptions from state environmental permitting, its operations still had to comply with general environmental laws (such as Michigan air pollution control laws) that prohibit causing air contaminants or water runoff in a manner that unreasonably interferes with the comfortable enjoyment of life and property. Any violation of such standards would also constitute negligence per se.

h. Causing damage to public sidewalks/curbs without repair, in violation of Detroit property

⁷ Detroit City Code § 50-14-326; Requires that all unbuilt areas be given an appropriate permanent ground treatment (e.g., grass, plantings, or permitted mulch) to prevent erosion and dust. Crown's action of chemically sterilizing the ground and leaving earth exposed breaches this requirement.

maintenance and zoning codes (City Code § 50-14-235)⁸; *see also* Detroit City Code Chapter 57⁹.

177. The above laws and regulations were all designed to protect a class of persons that includes neighboring residents, such as Mr. Tomasz, and to prevent the type of harm that Mr. Tomasz has experienced.

178. There is a direct and clear connection between Crown/Kronos' violations of these provisions and the injuries to Mr. Tomasz: for example, had Crown/Kronos followed the law and controlled its dust, Mr. Tomasz would not have dust coating his home; had Crown obtained permits and followed environmental review processes, the project might have been redesigned, relocated, or mitigated to avoid the nuisances; had Crown not illegally removed trees, the dust, noise, and flooding would be less severe.

179. Crown/Kronos' violations of these safety statutes and ordinances constitute negligence per se under Michigan law and directly caused harm to Mr. Tomasz and Family. Crown is negligent as a matter of law due to breaches of the statutes that establish the duty and breach elements of negligence.

180. Crown/Kronos' negligence per se was a proximate cause of the damages to Mr. Tomasz. The harms that occurred are the very harms the laws were intended to prevent.

181. Therefore, Crown is liable to Mr. Tomasz for negligence per se, and Mr. Tomasz is entitled to recover all damages proximately resulting from Crown's legal violations.

⁸ Detroit City Code § 50-14-235; Establishes landscaping and screening requirements for developments, particularly where industrial uses abut residential districts. Crown/Kronos has failed to comply with these standards by not maintaining any landscape buffer, by removing existing green infrastructure (trees), and by allowing damage to remain unrepaired at the interface of its industrial site and the public street.

⁹ ("Vegetation Ordinance") The City's code forbids any person from destroying or removing any shade or ornamental tree standing on public property (such as a city street or parkway) without proper authorization. Crown's removal of dozens of street trees violated this ordinance and, upon information and belief was done without a permit or City approval.

182. Crown is currently operating the concrete batch plant without the required buffering and screening measures actually in place.

183. Crown cannot claim compliance with screening and buffering laws based solely on submitted plans while operating an industrial facility that lacks the required environmental protections for neighboring residents.

184. Detroit City Code requires that screening and buffering be installed as a condition of permit approval, not as future promises that may or may not be implemented.

185. Upon information, knowledge, or belief, the City of Detroit has accepted Crown's operational plans for buffering; however, the requirement for buffering remains uninstalled, representing another example of the preferential treatment Crown/Kronos receives, as typical permit holders would be required to complete all screening and buffering requirements before commencing operations.

186. Crown/Kronos' pattern of operating first and promising compliance later, as evidenced by both the illegal construction that triggered the stop-work order and the current operations without required buffering, shows that Crown treats regulatory requirements as suggestions rather than mandatory prerequisites for operation.

187. Until Crown/Kronos actually installs and maintains the promised 30-foot green buffer, a 6-foot green berm, and the required landscaping, Crown/Kronos remains in violation of Detroit's screening and buffering requirements, regardless of any future improvements it has promised on paper.

188. In addition, because some of these violations are continuing, Mr. Tomasz seeks appropriate injunctive relief (as well as other forms of relief) to compel Crown/Kronos' compliance with the law (such as an order to implement effective dust control measures, noise

abatement, restoration of lost trees or other environmental remediation, etc., as needed to protect the public and Mr. Tomasz.

**COUNT V – VIOLATION OF THE MICHIGAN ENVIRONMENTAL PROTECTION
ACT (MEPA), MCL 324.1701 *ET SEQ.***

189. Counter-Plaintiff Matthew Tomasz realleges and incorporates the preceding paragraphs by reference as if fully set forth herein.

190. The Michigan Environmental Protection Act (Part 17 of the Natural Resources and Environmental Protection Act) provides that “[a]ny person may maintain an action... against any person for the protection of the air, water, and other natural resources and the public trust in these resources from pollution, impairment, or destruction.” MCL 324.1701(1).

191. The statute further provides that the Michigan courts shall grant equitable relief (such as an injunction) to protect the air, water, and natural resources from pollution, and that the defendant in such an action may rebut the claim by showing that there is no feasible and prudent alternative to its conduct consistent with the reasonable requirements of the public health and welfare.

192. Under MEPA, Mr. Tomasz has standing to sue to enjoin activities that are polluting or impairing natural resources.

193. The dust and air pollution generated by Crown’s Kronos concrete plant constitute an unlawful pollution or impairment of natural resources, specifically the air (atmosphere) in the Cadillac Heights neighborhood.

194. Air is a natural resource held in the public trust. Crown/Kronos’ dispersal of particulate matter (including silica dust) into the air in quantities that affect health and property is a form of pollution and environmental impairment.

195. The stormwater runoff caused by Crown's development may also constitute an impairment of water or land resources, as it unnaturally directs water (potentially carrying sediment or contaminants) onto land and into water disposal systems in a way that nature did not intend, contributing to erosion and water quality issues in the area.

196. Crown/Kronos' actions or omissions have violated environmental laws and standards, and they are not otherwise permitted by law.

197. Air quality measurements in the area surrounding Crown's concrete plant operations show that PM_{2.5} readings have increased from an average of 10.3 µg/m³ in 2024 to 12.46 µg/m³ as of 2025, representing a significant deterioration in air quality since Crown's Kronos site concrete operations intensified.

198. These current PM_{2.5} levels exceed the National Ambient Air Quality Standards (NAAQS) annual standard of 9 µg/m³, which is a health-based standard established by the Environmental Protection Agency to protect public health with an adequate margin of safety.

199. More alarmingly, PM₁₀ readings have spiked as high as 668 µg/m³, and PM_{2.5} readings have reached 259.4 µg/m³ levels, which represent serious health hazards far exceeding safe air quality standards designed to protect human health.

200. Even if Crown has a general occupancy permit for the facility, such authorization does not extend to creating environmental hazards off-site.

201. Crown's activities have polluted and impaired these natural resources.

202. The chronic release of dust and fine particulate matter from the Kronos concrete plant and the adjacent demolished lots has contaminated the air in and around Mr. Tomasz's property.

203. The dust contains harmful substances (such as silica and potentially lead and asbestos from the demolished structures) that degrade air quality and can deposit into the soil and water (for example, settling onto the ground or into homes).

204. This pollution is evidenced by the visible dust clouds observed, the coating of particulate matter on surfaces, and the health symptoms experienced by residents exposed to the dust. The volume and frequency of dust emissions exceed normal urban conditions, constituting an environmental impairment in Cadillac Heights.

205. Residents are effectively breathing air that Crown has laden with industrial and demolition debris. Such environmental contamination is precisely the kind of harm MEPA was intended to address.

206. These impacts are *prima facie* harmful to the environment and the public trust in those resources, as evidenced by the layers of dust on homes and the health complaints from residents.

207. Under MEPA, Crown/Kronos has the burden of proving that there is no feasible and prudent alternative to its conduct that would avoid the pollution or impairment, or that the conduct is consistent with and reasonably necessary for the promotion of the public health, safety, or welfare in light of the state's paramount concern for the protection of natural resources from pollution.

208. By way of example and not limitation, Crown/Kronos could:

- a. Install appropriate dust control technology at the Kronos plant (such as enclosures for conveyors and hoppers, water spray systems or baghouse filters for dust collection, paved or treated roads on-site to minimize dust from truck traffic, etc.);
- b. operate the plant in a manner that minimizes dust (e.g., halting dusty operations on windy days, using best-available techniques to suppress particulate emissions at the source);

- c. properly remediate and stabilize the lots where houses were demolished, by clearing any remaining debris, cleaning up contaminated soils, and covering the soil with grass, mulch, gravel, or other erosion control measures to prevent dust, plus installing temporary fencing or windbreaks; and
- d. follow all applicable regulations and industry standards for dust mitigation, which might include obtaining and complying with an air permit that sets particulate emission limits or relocating certain operations indoors.

209. These alternatives are feasible (technologically and economically) and prudent, as they would achieve Crown's business purposes (concrete production and site preparation for future development) without causing the grave harm to the environment and community that is currently occurring. Crown/Kronos' failure to implement such measures demonstrates that the ongoing pollution is avoidable and unjustified.

210. Unless Crown/Kronos can meet its burden of proving that there is no feasible and prudent alternative consistent with the public health, safety, and welfare (which Mr. Tomasz contends it cannot, given the obvious alternatives as noted above), the Court must deem the conduct unlawful under MEPA and grant appropriate relief

211. Nothing about Crown/Kronos' current polluting conduct is necessary for the public good; to the contrary, it endangers public health and welfare.

212. Pursuant to MCL 324.1704, Mr. Tomasz is entitled to injunctive relief and other appropriate relief to protect the air and other natural resources from Crown/Kronos' activities.

213. Specifically, Mr. Tomasz asks this Court to enjoin Crown from continuing any activities at the Kronos facility that pollute or impair the air, water, or natural resources in the Cadillac Heights neighborhood until such time as Crown/Kronos can demonstrate that its operations no longer pose environmental harm.

214. This may include an order to cease operations or an order imposing specific pollution abatement measures (such as dust suppression technology, noise mitigation, replanting trees, constructing adequate stormwater retention, etc.).

215. Additionally, under MEPA's provisions, Mr. Tomasz seeks declaratory relief declaring that Crown's current operations violate MEPA by polluting and impairing natural resources and declaring that Crown must take specific actions to bring its facility into compliance with environmental standards.

216. Finally, Mr. Tomasz should be awarded costs, including reasonable attorney fees, as permitted by MCL 324.1703(3) if he prevails in this action, given that he is acting to enforce the public interest in environmental protection.

COUNT VI – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (IIED)

217. Counter-Plaintiff Matthew Tomasz realleges and incorporates the preceding paragraphs by reference as if fully set forth herein.

218. Crown's conduct in this matter has been extreme, outrageous, and beyond the bounds of common decency.

219. Mr. Tomasz is a military veteran who suffers from PTSD related to his service.

220. Crown's relentless noise, vibrations (evoking feelings of explosions or heavy machinery), and the stress of defending his home have severely aggravated his condition.

221. Crown, through their agents, was aware of the particular vulnerability of Mr. Tomasz as a disabled veteran through an email communication between Mr. Tomasz and Crown's agent, but persisted regardless.

222. It is virtually unheard of in modern times for a company to knowingly subject a small residential neighborhood to such severe environmental harm and disruption, especially after being explicitly informed of the suffering it is causing.

223. Crown's behavior — constructing an illegal polluting facility next to homes, and then, even after being shut down once and confronted with community outrage, resuming operations that bombard neighbors (including families with children) with dust that chokes the air, noise that shatters the peace, and conditions described as “unbearable” — is atrocious and intolerable in a civilized community.

224. Crown acted with intent or reckless disregard as to the infliction of emotional distress.

225. Crown's management and owners knew that their actions would cause, and were causing, significant distress to the residents of Cadillac Heights.

226. The numerous complaints, news reports, and personal appeals put Crown on notice that Mr. Tomasz and others were suffering greatly due to the plant's operations.

227. Instead of alleviating the situation, Crown chose to ignore it (and at times even sought to expand the operations).

228. Instead of addressing or mitigating the problems its plant created, Crown Enterprises is actively seeking to massively expand its industrial operations throughout the Cadillac Heights neighborhood, including submitting site plans to expand operations from its current location all the way west to Mitchell Street and applying to the Department of Public Works to grant them ownership of public streets to facilitate this larger industrial facility.

229. Crown's expansion plans would further erode what remains of the neighborhood's residential character and exponentially increase the dust, noise, truck traffic, and other industrial impacts already harming the Tomasz Family and other residents. *See Ex. 9.*

230. Crown's application to close public streets demonstrates its intent to privatize neighborhood infrastructure for its exclusive industrial use, cutting off public access and further isolating remaining residents within Crown's expanding industrial zone.

231. Crown's expansion plans, pending City Council approval through the DPW process, reveal that Crown views the Cadillac Heights neighborhood not as a community to coexist with, but as territory to be systematically acquired and converted to industrial use, regardless of the impacts on remaining residents.

232. This demonstrates a reckless indifference to the high probability that emotional distress would result.

233. It can be inferred that Crown's acts were willful – Crown effectively decided that the neighbors' peace and well-being did not matter when balanced against corporate objectives.

234. Mr. Tomasz has indeed suffered severe emotional distress as a result of Crown's outrageous conduct.

235. Mr. Tomasz experiences ongoing anxiety, stress, and fear for his Family's health because of the pollution from Kronos.

236. Mr. Tomasz feels anger, frustration, and powerlessness from having his home life upended by Crown, an indifferent polluting neighbor.

237. The constant nuisance has caused him sleepless nights and a profound loss of tranquility. It is distressing for Mr. Tomasz to witness his neighborhood being degraded and to see his child unable to play outside due to dangerous conditions – no parent should have to tell their

child that the yard is not safe because of corporate pollution. The situation has significantly strained Mr. Tomasz's mental and emotional well-being.

238. Mr. Tomasz's son has been diagnosed with lead poisoning, or elevated blood lead levels, and Mr. Tomasz is concerned that this is a result of the dust coming from the neglected lots across the street.

239. Mr. Tomasz's newborn has been having trouble breathing, which Mr. Tomasz attributes to the persistent air pollution caused by Crown and the Kronos facility.

240. Crown/Kronos' actions were the proximate cause of this severe emotional distress. But for Crown/Kronos' extreme and outrageous operation of the concrete plant, Mr. Tomasz would not be suffering this mental anguish.

241. The distress is not trivial or fleeting; it is a serious, enduring injury directly resulting from living under the oppressive conditions Crown/Kronos created.

242. As Crown's conduct was intentional or grossly reckless, and it caused serious emotional harm, Crown is liable for intentional infliction of emotional distress.

243. Mr. Tomasz seeks compensatory damages for the emotional pain, suffering, and mental anguish he has endured. Further, given the willfulness of the misconduct, Mr. Tomasz seeks exemplary damages to punish and deter such outrageous behavior and to compensate for the sense of indignity and harm to his dignity that Crown's conduct has inflicted.

COUNT VII – PUBLIC NUISANCE

244. Counter-Plaintiff Matthew Tomasz realleges and incorporates the preceding paragraphs by reference as if fully set forth herein.

245. Crown/Kronos' concrete plant has created a public nuisance. The plant's ongoing activities unreasonably interfere with rights common to the general public, including the public's

right to a clean and healthful environment, the right to breathe air free of excessive pollution, the right to quiet enjoyment of community life, and the right to use public roads and spaces without undue hazard or disturbance.

246. Crown's actions have substantially interfered with public health, public safety, public peace, and public comfort in the Cadillac Heights neighborhood.

247. The nuisance is public in nature because the harms and threats emanating from the Kronos plant affect the community as a whole.

248. The dust pollution from Kronos disperses through the air of the entire neighborhood, potentially impacting all who live, work, or travel in the area.

249. The loud noise and truck traffic disturb not just one home, but many homes and the overall tranquility of public areas.

250. The risk to health (from silica dust and other pollutants) is a community-wide concern, not confined to a single property. Likewise, the degradation of the neighborhood (blight, reduced property values, unattractive and unsafe streets) is a harm borne by the public in that locale.

251. Crown's interference with the public's rights is unreasonable. It has created a condition that significantly endangers or inconveniences the public, without adequate justification.

252. Operating a polluting concrete plant in close proximity to residences is incompatible with the public's common right to live in a safe and clean environment.

253. Crown's failure to effectively control its pollution and its disregard of legal norms underscore Crown's unreasonableness.

254. The gravity of harm to the community (health issues, quality of life reduction, etc.) far outweighs any social utility of Crown's current operation in this location.

255. The widespread harm to the community has been documented and is evident.

256. Local residents across Cadillac Heights have complained about and reported the dust clouds, constant noise, and other impacts from Kronos.

257. Media reports corroborate that many people in the neighborhood are suffering, with accounts of respiratory illnesses and numerous grievances aired at community meetings and city hearings.

258. This is not a case of a single sensitive individual being bothered; it is a broad cross-section of the public being affected in their daily lives.

259. As a member of the public in Cadillac Heights, Mr. Tomasz has standing to bring a public nuisance claim because he has suffered a special injury distinct from the injury to the public at large.

260. While many residents are affected by Kronos, Mr. Tomasz's harm is unique in degree (and in kind) relative to most other community members.

261. His home is directly across the street from the neglected lots and adjacent to the Kronos plant, putting him at ground zero for dust fallout and noise.

262. His basement flooding issue is specific to his lot due to how runoff flows – not every resident suffers from that flooding.

263. Moreover, Mr. Tomasz's young child's inability to play in their own yard and his loss of use of his porch for family gatherings are personal impacts that, while symptomatic of the general problem, affect Mr. Tomasz in a markedly greater way than the average Detroit resident.

264. These special injuries, including distinct property damage and personal deprivation, entitle Mr. Tomasz to sue for public nuisance in his individual capacity, even though the nuisance also affects others in the community.

265. Crown's public nuisance has caused and will continue to cause substantial damage to the community and to Mr. Tomasz. Therefore, Mr. Tomasz seeks abatement of the public nuisance.

266. Specifically, Mr. Tomasz asks this Court to issue appropriate injunctive relief to stop Crown's unreasonable interference with public rights.

267. This may include an order shutting down or suspending operations at the Kronos plant unless and until effective measures are in place to eliminate the harmful dust emissions, excessive noise, and other nuisance conditions impacting the public.

268. Alternatively, or additionally, injunctive relief could mandate specific abatement steps (such as installing dust suppression systems, restricting operating hours/truck routes to reduce noise and traffic at sensitive times, constructing barriers or enclosures, etc.) that would protect the community's rights going forward.

269. For clarity, Counter-Plaintiff states that this public nuisance claim is brought solely on his own behalf to remedy the injury to himself, and not as a class action or on behalf of any other residents.

270. Mr. Tomasz does not seek to represent or bind other members of the public in this lawsuit. The injunctive relief sought herein is community-wide in effect only because abating the nuisance for Mr. Tomasz will necessarily abate it for everyone else as well.

271. In summary, Crown's operation of the Kronos concrete plant constitutes a public nuisance under Michigan law, and Mr. Tomasz, having suffered special harm, is entitled to seek its abatement. He therefore requests that the Court declare the situation a public nuisance and order the necessary injunctive remedies to protect public health, safety, and peace in Cadillac Heights.

PRAYER FOR RELIEF

WHEREFORE, Defendant/Counter-Plaintiff Matthew Tomasz respectfully requests that this Honorable Court enter judgment in his favor and grant the following relief against Counter-Defendant Crown Enterprises, LLC:

- A. An award of compensatory damages in an amount to be proven at trial, to compensate Mr. Tomasz for all losses and injuries sustained as a result of Crown's wrongful conduct, including property damage, diminution in property value, out-of-pocket expenses, and physical and mental pain and suffering.
- B. An award of exemplary damages to the extent permitted by law, as a result of Crown's willful, wanton, and egregious misconduct, and to fully compensate Mr. Tomasz for the indignity and aggravation caused by Crown's actions.
- C. Issuance of permanent injunctive relief to abate the ongoing nuisance and unlawful conduct, including but not limited to an order, halting or limiting operations at the Kronos concrete plant until such time as Crown has implemented measures that eliminate the harmful dust emissions, excessive noise, unmanaged runoff, and other nuisances impacting Mr. Tomasz. Such injunctive relief should require Crown to take all actions necessary to bring its facility into full compliance with environmental and safety standards (for example, installing effective dust and noise controls, rerouting truck traffic, constructing proper drainage, and restoring vegetative buffers or otherwise remediating environmental damage). The injunctive relief should further enjoin Crown from resuming or continuing operations in any manner that continues to cause a private or public nuisance or that violates Mr. Tomasz's rights as described herein.
- D. A declaration by the Court that Crown's operation of the Kronos plant, as presently conducted, constitutes a private and public nuisance and violates the Michigan

Environmental Protection Act, and that Crown must cease or correct these violations forthwith.

E. An award of reasonable costs, litigation expenses, and attorney fees as permitted by law (including as allowed under MEPA or other statutes) incurred by Mr. Tomasz in bringing this action.

F. Such other and further relief as this Court deems just, equitable, and appropriate under the circumstances.

Respectfully submitted,

LAKESHORE LEGAL AID



Benjamin P. Christensen
Attorney for Matthew Tomasz
3200 Greenfield Rd, Suite 130
Dearborn, MI 48120
(313) 242-0811 x 1313
bchristensen@lakeshorelegalaid.org

Dated: June 2, 2025

EXHIBIT 1 – EVIDENCE INDICATING HERCULES CONCRETE LLC (TO WHICH KRONOS CONCRETE LLC IS A SUBSIDIARY) IS OWNED BY CROWN ENTERPRISES, LLC

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
ACTIVITY REPORT: On-site Inspection

P118867963

FACILITY: Hercules Concrete, LLC		SRN / ID: P1188
LOCATION: 2791 West Jefferson Avenue, DETROIT		DISTRICT: Detroit
CITY: DETROIT		COUNTY: WAYNE
CONTACT: Mark Fletcher, Director, Environmental		ACTIVITY DATE: 06/29/2023
STAFF: Jonathan Lamb	COMPLIANCE STATUS: Compliance	SOURCE CLASS: MINOR
SUBJECT: On-Site Inspection, FY 2023		
RESOLVED COMPLAINTS:		

INSPECTED BY: Jonathan Lamb and Jeff Korniski, EGLE-AQD
PERSONNEL PRESENT: Mark Fletcher, Director, Environmental – Crown Enterprises, Inc.; Shawn Wells, Superintendent - Detroit Aggregate; Steph Lewis, Plant Manager - Hercules Concrete
CONTACT PHONE NUMBER: 586-467-1711, ext. 2276 (Mr. Fletcher)
FACILITY WEBSITE: www.herculesconcrete.com

FACILITY BACKGROUND

Hercules Concrete, LLC operates a portable central mix concrete batch plant located at 2791 West Jefferson Ave., Detroit. Hercules Concrete is owned by Crown Enterprises, LLC, based out of Warren, Michigan. The facility operates within a 13.2-acre unpaved parcel of land along the Detroit River just north of the Ambassador Bridge. The facility started operations at this location in March 2020. The facility operates approximately 4:00 AM to 6:00 PM, Monday through Saturday. Most of the production at the facility occurs from April through December, with limited production from January through March. There are approximately 35 employees working out of this site, including drivers. Note: the entrance to the facility is located at 115 Rosa Parks Blvd.

INSPECTION NARRATIVE/PROCESS DESCRIPTION

AQD staff, Jeff Korniski and Jon Lamb (author), met with Mark Fletcher, Director, Environmental - Crown Enterprises, LLC to perform site visits/inspections of facilities owned by Crown Enterprises which are located at the following sites:

2791 West Jefferson Ave. (SRN: P1188). Hercules Concrete, LLC currently operates a concrete batch plant at this location, but may be relocating the batch plant to 4461 West Jefferson within the next two years.

115 Rosa Parks Blvd. (SRN: P0431). This address is listed under "Detroit Bulk Storage" in AQD's database. This property is contiguous with 2791 West Jefferson Ave. Crown Enterprises has two portable concrete crushers currently located at this address but has submitted relocation notices to move both crushers to 4461 West Jefferson.

4105 and 4461 West Jefferson Ave. (SRN: P0434). The 4105 West Jefferson address is listed under "Nicholson Terminal & Dock Co., Port of Detroit" in AQD's database; 4461 West Jefferson was the address provided by Crown Enterprises, which is part of the same property and so is included in the P0434 SRN at this time. The property is owned by Ambassador Port and operated by Nicholson Terminal. Detroit Aggregate, LLC, which is owned by Crown Enterprises, currently has operations on this site.

In addition to performing inspections at each site, Mr. Korniski and Mr. Lamb discussed current and future operational plans and permitting issues with Mr. Fletcher, including the future relocation of two portable concrete crushers and potential relocation of the concrete batch plant, as well as recent complaints received by AQD regarding fugitive dust and general siting concerns relating to operations at these sites.

<https://intranet.deq.state.mi.us/maces/WebPages/ViewActivityReport.aspx?ActivityID=248...> 7/7/2023

EXHIBIT 2 – EVIDENCE INDICATING CROWN ENTERPRISES, LLC’S DAN ONIFER REQUESTED A BUILDING PERMIT FOR CONCRETE BATCH PLANT (I.E., CROWN IS NOT AN ABSENTEE LESSOR)



City of Detroit
Buildings, Safety Engineering and Environmental Department
Building Division
Coleman A. Young Municipal Center
2 Woodward Avenue, 4th Floor, Suite 408, Detroit, Michigan 48226
(313) 224-3202

BUILDING PERMIT

SITE ADDRESS: 3405 GAYLORD PERMIT NO.: BLD2022-00244
PARCEL NUMBER: 09009490-2 SECTOR: APPLIED: 01/18/2022
TYPE OF WORK: Change of Occupancy/Use ISSUED: 08/12/2022
ESTIMATED COST: \$50,000.00 EXPIRES: 02/08/2023
USE: High-Impact Manufacturing/Processing (Concrete Batch Plant) PMR No.: PMR2022-00253
PERMIT DESCRIPTION: Change of Occupancy/Use to High-Impact Manufacturing/Processing (Concrete Batch Plant) and Alterations as per plans. (Subject to all applicable Federal, State and Local Executive Orders.)

ZONING DISTRICT: M4-Intensive Industrial USE GRP: F-1 308.2 FL AREA:
BLDG TYPE CODE: STORIES: 1 GROUND AREA:
BETWEEN: Between and SIZE: 294087.00
LOT NO.: SUBDIVISION: 09009490-2

Owner	Applicant	Contractor
CROWN ENTERPRISES INC PO BOX 869 WARREN, MI 48090 086	daniel Onifer [REDACTED] Warren, MI 48089	

Fees			
Type	Status	Date	Amount
Building Permit Fee	INVOICED	08/11/2022	\$1,110.00
Electrical Plan Review Fee	INVOICED	08/11/2022	\$44.40
Plumbing Plan Review Fee	INVOICED	08/11/2022	\$44.40
Fire Plan Review Fee	INVOICED	08/11/2022	\$150.00
Total:			\$1,348.80

Please be advised per the 2015 Michigan Building Code: Each permit issued by the code official under the provisions of the code shall expire by limitation and become null and void if the work authorized by the permit has not begun within 180 days from the issued date of the permit or if not inspected, after the work has begun for a period of 180 days. Before the work may be restarted, the permit shall be reinstated if the code has not changed. If the code has changed and the work was not started, a new permit is required based on the current requirements.

**EXHIBIT 3 – ZONING BOARD MEETING WITH DAN ONIFER REPRESENTING
CROWN ENTERPRISES - EVIDENCE INDICATING CROWN ENTERPRISES, LLC
REQUESTED BUILDING PERMIT FOR CONCRETE BATCH PLANT (NOT
ANBSENTEE LESSOR)**

1 that's going to blend in. There's an industrial site
2 on the other side of it.

3 And the silos are where on the property
4 again?

5 MR. KELLEY: So --

6 MEMBER THOMPSON: Just in that --

7 MR. KELLEY: Kind of where the conveyer
8 points in.

9 MEMBER THOMPSON: Okay.

10 MR. KELLEY: It would be more toward the
11 center of that large rectangle. And they sit -- I
12 guess they would be facing north/south so you're only
13 going to see --

14 MR. FALZARANO: Yeah, facing north and south.

15 MR. KELLEY: You'll see one of them looking
16 at it.

17 MR. ONIFER: If I could.

18 CHAIRPERSON PEDDIBOYINA: Yeah. Please go
19 ahead. You can spell your first and last name clearly
20 and the secretary will take the oath.

21 MR. ONIFER: Dan Onifer. D-a-n O-n-i-f-e-r.

22 I'm with Crown Enterprises also.

23 MEMBER MONTAGUE: Are you an attorney?

EXHIBIT 4 – VIOLATION NOTICE FOR KRONOS SITE



City of Detroit
Buildings, Safety Engineering and Environmental Department
Building Division
Coleman A. Young Municipal Center
2 Woodward Avenue, 4th Floor, Suite 408, Detroit, Michigan 48226
(313) 224-3202 or E-mail BLD@detroitmi.gov

VIOLATION NOTICE

<p>Record ID : SPL2022-00776</p> <p>Type of Construction :</p> <p>Location : 3405 GAYLORD</p>	
<p>Gary Kelly [REDACTED] Warren MI, 48089</p>	<p>Telephone inquiries may be made between 8:30 am and 3:30 pm Monday - Friday</p>
<p>Inspection Type : Complaint Inspection</p> <p>Inspector : Ronald Fairnot</p>	<p>Inspection Result : FAIL</p> <p>Inspection ID : 32188248</p>
<p>The Building Division inspected the above premises on 06/24/2022 as required by law. Violations of the Building Code were found to exist.</p> <p>The following orders are issued and correction shall be made on or before the compliance date unless otherwise specified below.</p> <p>Compliance Date : 06/27/2022</p>	
<p>NOTE: YOUR ATTENTION IS DIRECTED TO THE COMPLIANCE DATE ON THIS NOTICE. FAILURE TO CORRECT VIOLATIONS, PROVIDE RESTITUTION AND REQUEST A REINSPECTION BY THE COMPLIANCE DATE WILL BE CAUSE FOR COURT ACTION. IF YOU CANNOT MAKE THE CORRECTIONS WITHIN THE SPECIFIED TIME AND YOU FEEL THERE IS A VALID REASON FOR DELAY, YOU MUST REQUEST AN OFFICE HEARING WITHIN THE SPECIFIED TIME FOR CORRECTIONS.</p>	

Please notify Building Division upon compliance of this violation.

IF YOU ARE NOT THE LEGAL OWNER/CONTRACTOR, PLEASE NOTIFY THE Building Division.

SPL2022-00776

BLD@detroitmi.gov

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Violations

ADDITIONAL VIOLATIONS

1 ADDITIONAL VIOLATIONS

Additional Violation 1

STOP WORK ORDER

NON-COMPLIANT

STOP WORK IMMEDIATELY.

You are to stop all work in progress; dismantle and remove the illegal work, and restore this building to its original condition prior to starting construction.

Chapter 8, Article II, 2019 Detroit City Code

MRC 2015 Sec. R114.1

MBC 2015 Sec. 115.1, 115.2, 115.3

OR

1. Apply to secure the required permits for all work performed, as per city ordinance and code.

MRC 2015 Sec. R105.1, Chapter 8, Article VII, Sec. 8-7-5, 2019 Detroit City Code

MBC 2015 Sec. 105.1, Chapter 8, Article II, Sec. 8-2-5, 2019 Detroit City Code

MRCEB 2015 Sec. 105.3, Chapter 8, Article VI, Sec. 8-6-6, 2019 Detroit City Code

2. Pay special inspection fee of \$134.00 (homeowner) or \$268.00 (business owner/contractor)

MRC 2015 Sec. R108.1, Chapter 8, Article VII, Sec. 8-7-7, 2019 Detroit City Code

MBC 2015 Sec. 109.1, Chapter 8, Article II, Sec. 8-2-7, 2019 Detroit City Code

MRCEB 2015 Sec. 108.1, Chapter 8, Article VI, Sec. 8-6-8, 2019 Detroit City Code

3. Call for inspection upon compliance.

MRC 2015 Sec. R109.3, Chapter 8, Article VII, Sec. 8-7-8, 2019 Detroit City Code

MBC 2015 Sec. 110.1, Chapter 8, Article II, Sec. 8-2-8, 2019 Detroit City Code

MRCEB 2015 Sec. 109.1, Chapter 8, Article VI, Sec. 8-6-9, 2019 Detroit City Code

Please notify Building Division upon compliance of this violation.

IF YOU ARE NOT THE LEGAL OWNER/CONTRACTOR, PLEASE NOTIFY THE Building Division.

SPL2022-00776

BLD@detroitmi.gov

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EXHIBIT 5 – CROWN CHEMICAL SPRAY/HERBICIDES





EXHIBIT 6 – DETROIT LAND BAND AUTHORITY - LAND REVIEW AREAS

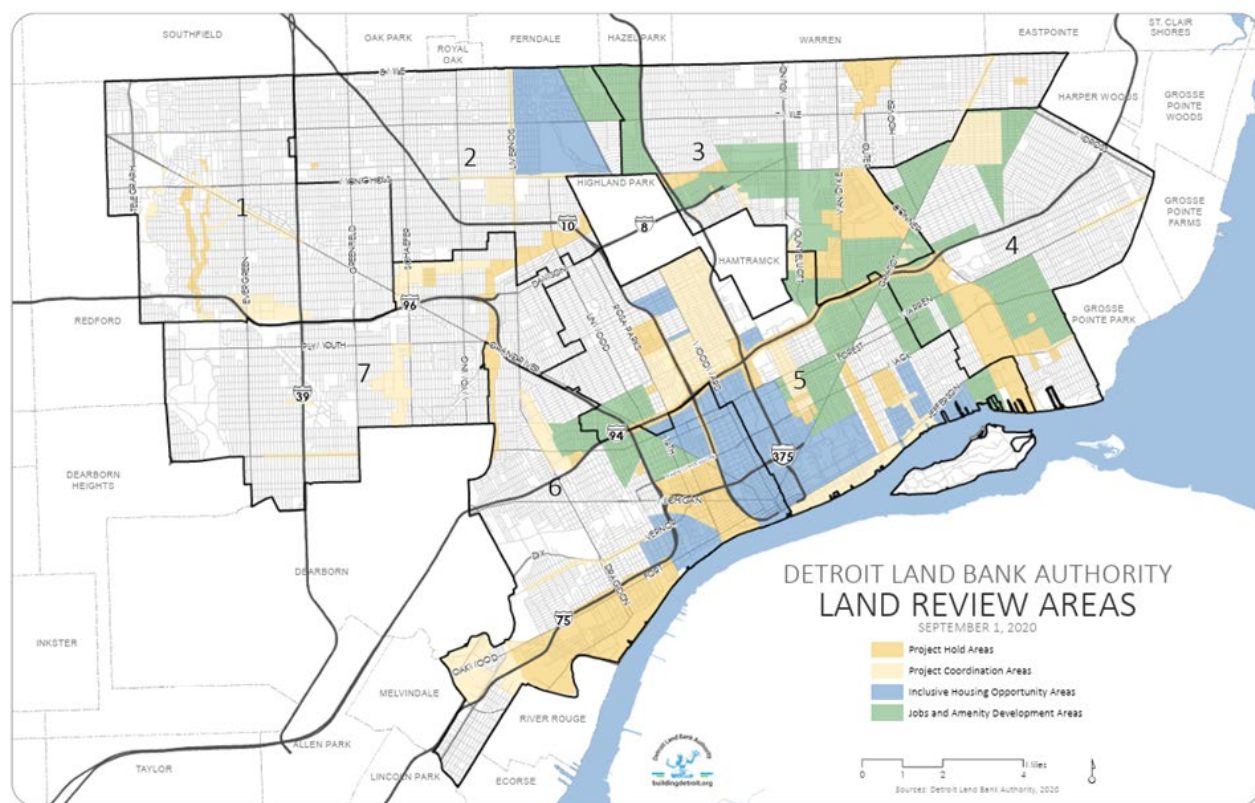


EXHIBIT 7 – DUST COMING FROM CROWN’S LOTS AND KRONOS SITE

















EXHIBIT 8 – CROWN/KRONOS’ TREE REMOVAL





**EXHIBIT 8 – CHARACTER OF THE NEIGHBORHOOD BEFORE THE KRONOS
SITE**











