

## Berkhout, Keith

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**From:** kevin besch <kflb29@gmail.com>  
**Sent:** Monday, February 10, 2020 9:41 AM  
**To:** Lauzen, Chris; Molina, Myrna; Lewis, Anita; Thomas, Angela; Silva, Monica; Hernandez, Barbara; Koppie, Tom; Starrett, Susan; John Hoscheit; Weber, Steve; Davoust, Mark; Kenyon, Mike; Allan, Deborah; Iqbal, Mo; Wegman, Penny; Schefflow, Douglas; Kious, Chris; Sanchez, Jarett; VanKerkhoff, Mark; Berkhout, Keith  
**Subject:** EX: URGENT! VOTE NO FOR #4535 SPECIAL USE KENNEL!

February 10, 2020

**TO:** Ladies and Gentlemen of the Zoning and Development Departments as well as the Kane County Board:

**FROM:** Kevin Besch ([kflb29@gmail.com](mailto:kflb29@gmail.com)) Mary Johnson ([mecloud11@icloud.com](mailto:mecloud11@icloud.com))

**SUBJECT:** URGENT VOTE NO FOR #4535 SPECIAL USE KENNEL

The Kane County Board's is considering a decision to approve a request for a "Special Use" (#4535) zoning change that would permit our new neighbor to build a "structure" for the "use" of kenneling dogs, that would clearly run counter to county ordinance and quite possibly state law.

Therefore, according to the mandate of state law, your agency should "interpret" the ordinances relevant to the issuance of a "structure" for a dog kennel in a way that will serve to protect, "the public health."

The sound of barking dogs being force-fed into our homes will clearly constitute a definite health hazard. Please see the following web page for complete documentation: <http://barkingdogs.net/exposeindex.shtml>

According to Kane County Zoning Ordinance found at:

<https://www.countyofkane.org/FDER/Documents/buildingandzoning/zoning/zoningOrdinance.pdf>

### ARTICLE II. PURPOSE

[Sec. 2.1. Stated.] The Kane County Zoning Ordinance is adopted "For the purpose of promoting the public health, safety, morals, comfort, and general welfare; conserving the values of property throughout the county; and reducing or avoiding congestion in the public streets and highways". The standards and requirements contained in this ordinance and the district mapping reflected on the Kane County Zoning Maps are intended to further the implementation of the objectives and policies of the 2040 Land Resource Management Plan for Kane County, as well as protect all desirable existing structures and uses. (Ord. No. 98-45, 4-14-98; Ord. No. 12-295, 10-9-12

However, far from protecting the public health, the Kane County Board is now considering to issue a "Special Use" approval (#4535) that will, quite literally, entitle our new neighbor to degrade the health, well-being, comfort of us and ours as well as the value of our properties, by way of chronic noise and odors that will ring throughout our homes for as far into the future as anyone can foresee.

The issuance of such an approval would clearly constitute the official sanctioning of a health hazard in a residential neighborhood, which, undeniably, violates the spirit of state, county and municipal law.

Quite possibly, the perils of noise were unknown when the existing zoning laws were passed. But those dangers are well-established now. Again, see the following web page for complete documentation of the health hazard posed by chronic noise: <http://barkingdogs.net/exposeindex.shtml>

Therefore, the county has an ethical duty to follow its laws, policies, practices, and procedures as necessary to remain in compliance with both the letter and spirit of State law, which clearly state that zoning regulators must think first of the public health, and give that priority over considerations related to property rights.

In an answer filed on (12/5/2019) to the applicant's "Findings of Fact", it was written, "The Kane County Development Zoning Division approved the County Line Subdivision in Saint Charles Township on or about December 1960. Following the zoning approval change, 30+ homes were built providing a constant tax revenue flow for both the County and Saint Charles Township. Since the Development Department made the decision to allow residential development adjacent to an area zoned for farming, doesn't it logically follow that the Development Department has an obligation to protect those that have chosen to reside in said approved residential area from a zoning change that will impact their unencumbered enjoyment of their homes? Granting of a Special Use shows a blatant disrespect for the current homeowners and the long-range planning decisions made by the County Development Department." *In conducting additional research (using "Lexis Nexis" at the Kane County Judicial Center with the aid of staff) a neighbor found the following appellate court decision that should be taken into consideration prior to your upcoming final vote. The Appellate Court found:*

**People ex rel. Traiteur v. Abbott**

**Appellate Court of Illinois, Fifth District**

**March 27, 1975, Filed**

**No. 74-143**

The owners had 16 dogs and boarded several others in their kennel at their home. **The trial court found that the kennel was a nuisance and entered an order permanently enjoining the owners from operating the dog kennel. The appellate court affirmed.** The court held that the circuit court did not err in finding that the dog kennel constituted a nuisance since the neighborhood was a residential district, **the neighbors lived in their homes before the kennel was constructed**, and the business of raising dogs was not of great importance to the community. The court found that there was sufficient evidence from which the circuit court could have found that a foul odor emanated from the kennel, that an excessive amount of noise emanated from the kennel, and that the **odor and noise unreasonably hindered some of the neighbors in their attempts to make use of their homes and yards.**

Before your final vote you must consider the following:

Does Kane County recognize chronic noise as a pathogen that is known to degrade physical, social, and psychological health? Does Kane County acknowledge that the sound of barking dogs and the odors of same being force-fed into one's home does, indeed, constitute a health hazard? **The nuisance noise and odors that will blasting into our homes from our new neighbor's proposed kennel can be prevented (see legal precedent above).** Is it your intention, nonetheless, to permit the kennel to be built, despite the fact that you now know that they do, indeed, constitute a health hazard, a degradation of comfort, general welfare and property values in violation of Article II of the Kane County Zoning Ordinance and the legal precedent noted above?

The County Line Subdivision looks forward to your answer. **We urge you to VOTE NO.**

Respectfully submitted,

Kevin Besch

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