

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CITY OF PECULIAR, MISSOURI AND JOHN BOCKELMAN, APPELLANTS,
v.
HUNT MARTIN MATERIALS, LLC, RESPONDENT.

DOCKET NUMBER WD69570

DATE: January 13, 2009

Appeal From:

Cass County Circuit Court
The Honorable Joseph P. Dandurand, Judge

Appellate Judges:

Division One: Ronald R. Holliger, Presiding Judge, Lisa White Hardwick and James E. Welsh,
Judges

Attorneys:

Steven E. Mauer and Megan J. Redmond, Kansas City, MO, for appellant.
Robert Kent Sellers and Roland B. Miller, III, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

CITY OF PECULIAR, MISSOURI AND JOHN BOCKELMAN, APPELLANTS,
v.
HUNT MARTIN MATERIALS, LLC, RESPONDENT.

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Before Division One Judges: Ronald R. Holliger, Presiding Judge, Lisa White Hardwick and James E. Welsh, Judges

In the early 1990s Martin Marietta L.L.C. purchased Peculiar Quarry in Cass County. Cass County issued Martin Marietta a special use permit to conduct quarry operations on a portion of land near its original quarry operation. In 2005, Martin Marietta and Hunt Midwest Enterprises formed Hunt Martin to operate some of their interests in their quarries. In 2007, the City of Peculiar (City) and John Bockelman (Bockelman), an adjacent landowner to Peculiar Quarry, filed a petition for a declaratory judgment in the circuit court of Cass County, alleging that Martin Marietta had transferred its quarry operation at Peculiar Quarry to Hunt Martin and that Hunt Martin was operating the quarry without a special use permit. In the petition, City and Bockelman conceded that Cass County had granted Martin Marietta a special use permit, but they maintained that Martin Marietta was not authorized to transfer that permit to Hunt Martin. After a bench trial, the circuit court denied City's and Bockelman's petition, citing five grounds. City and Bockelman appeal claiming the trial court erred in denying their petition for two reasons. First, because *res judicata* and collateral estoppel did not bar their claim; and second, because the special use permit was non-transferable.

AFFIRMED.

Division One holds: City and Bockelman failed to address each of the five grounds the trial court used to deny their petition. Thus, they have demonstrated no prejudicial error, and we affirm the judgment denying their petition.

Opinion by: Ronald R. Holliger, Presiding Judge

Date: January 13, 2009

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