

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE

NATHAN REIZ, et al.,

Appellants,

v.

BOARD OF ZONING ADJUSTMENT OF KANSAS CITY, MISSOURI, et al.,

Respondents.

DOCKET NUMBER WD70925

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 23, 2010

Appeal from

The Circuit Court of Jackson County, Missouri
The Honorable Brian C. Wimes, Judge

APPELLATE JUDGES

Division Three: James Edward Welsh, Presiding Judge, Mark D. Pfeiffer and Karen King Mitchell,
Judges

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

NATHAN REIZ, et al.,)
)
Appellants,)
v.)
)
BOARD OF ZONING ADJUSTMENT)
OF KANSAS CITY, MISSOURI, et al.,)
)
Respondents.)

WD70925

Jackson County

Before Division Three Judges: James Edward Welsh, Presiding Judge, Mark D. Pfeiffer and Karen King Mitchell, Judges

This is an appeal from a judgment of the Circuit Court of Jackson County affirming the determination by Respondent Board of Zoning Adjustment of Kansas City, Missouri (“BZA”), that a billboard erected on property belonging to Appellant Nathan Reiz and leased to Appellant Porlier Outdoor Advertising Co. (“Porlier”) was illegal, as it was within 150 feet of the curb line of property used as a public park. On appeal, Porlier claims that the circuit court, instead of affirming the determination of the BZA, should have dismissed the matter as moot, because the property had already been condemned, and a condemnation award had already been paid into the court handling the condemnation. Alternatively, Porlier urges this court to reverse the determination of the BZA, claiming that it is illegal in that it improperly interpreted the term “park.”

AFFIRMED.

Division Three holds:

In this case, the propriety of the BZA’s determination is not moot, as it may have some collateral effect on the pending condemnation action. Because exceptions to the condemnation award were filed, the value of the condemned property will now be determined by a jury, and the legality of the billboard could be relevant to the fair market value of the property.

We affirm the decision of the BZA. The purpose of the ordinance requiring a 150-foot buffer area between public park land and billboards is to shield from the view of people using the park something that they might find unsightly, in this case, billboards. Because the park improvements continue to the curb line and park improvements within the city right-of-way easement include park features such as landscaping, lighting, and a memorial for deceased city employees, it is reasonable for the BZA to interpret the “park” as all areas commonly used as a public park, which includes the property all the way to the curb line. Accordingly, we find that substantial evidence supports the determination of the BZA and that it was not arbitrary, capricious, unreasonable, unlawful, or in excess of the BZA’s jurisdiction.

Opinion by: Karen King Mitchell, Judge

March 23, 2010

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