

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI EX REL.
OUTCOM, INC.**

**v.
CITY OF PECULIAR, ET AL.**

RESPONDENT,

APPELLANTS.

DOCKET NUMBER WD73309

DATE: October 11, 2011

Appeal From:

Cass County Circuit Court
The Honorable Jacqueline A. Cook, Judge

Appellate Judges:

Division Two: Thomas H. Newton, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Attorneys:

Gordon D. Gee, Kansas City, MO, for respondent.

Jeffrey A. Bullins, Overland Park, KS, for appellants.

MISSOURI APPELLATE COURT OPINION SUMMARY

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**v.
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No. WD73309

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Before Division Two: Thomas H. Newton, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

City of Peculiar, Missouri, Ted Turner and Charlie Mohr appeal from the trial court's grant of summary judgment in favor of Outcom, Inc. ordering that a preliminary writ of mandamus directing the City to issue a sign permit to Outcom be made absolute. The City contends that the trial court erred as a matter of law because Outcom failed to obtain a special use permit to erect an outdoor advertising sign though required to do so by section 420.130 of the Peculiar Municipal Code.

Reversed.

Division Two holds:

(1) The Building Inspector's ministerial duty to issue a sign permit pursuant to section 420.050 is not activated *unless* an applicant submits an application for sign permit that conforms to section 420.050(A) *and* the proposed sign is in conformance with the law, including other applicable provisions of Chapter 420.

(2) Outcom was required to obtain a special use permit for the proposed outdoor advertising sign which was the subject of its sign permit application pursuant to section 420.130. Because Outcom failed to do so, the proposed sign did not comply with Chapter 420, and, pursuant to section 420.100(B), the City's Building Inspector was neither authorized nor obligated to issue a sign permit.

(3) We cannot presume, as Outcom suggests, that the City's amendment of Chapter 420 was precipitated by the desire to add what had theretofore been a non-existent requirement--the need to secure a special use permit--as the City made several changes to its regulations with respect to outdoor advertising and billboards.

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