

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

CURRY INVESTMENT COMPANY, MLB HOLDINGS, LLC  
D/B/A AMERICAN PAWN AND CBS OUTDOOR, INC.,

Respondents

v.

THE BOARD OF ZONING ADJUSTMENT OF KANSAS CITY, MISSOURI.

Appellant

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DOCKET NUMBER WD75479

DATE: May 7, 2013

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Appeal From:

Circuit Court of Clay County, MO  
The Honorable Anthony Rex Gabbert, Judge

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Appellate Judges:

Division Four  
James Edward Welsh, C.J., Victor C. Howard, J., and Peggy Stevens McGraw, Sp. J.

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Attorneys:

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Counsel for Appellant

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

**CURRY INVESTMENT COMPANY, MLB HOLDINGS, LLC  
D/B/A AMERICAN PAWN AND CBS OUTDOOR, INC.,  
Respondents, v. THE BOARD OF ZONING ADJUSTMENT  
OF KANSAS CITY, MISSOURI, Appellant**

**WD75479**

**Clay County**

Before Division Four Judges: Welsh, C.J., Howard, J., and McGraw, Sp. J.

Curry Investment Company, MLB Holdings, LLC, and Outdoor, Inc., (Curry) appeal the Board of Zoning Adjustment’s (BZA) decision that conditioned approval of a special use permit on the removal of two nonconforming outdoor advertising signs. Curry contends: (1) that the BZA erred because the signs represent existing and lawful nonconforming uses, the BZA had no authority per section 88-525-09 of the Kansas City Zoning and Development Code to make conditions unrelated to approval of the special use permit, and the conditions violate Missouri law pursuant to section 226.527, RSMo Cum. Supp. 2012, and; (2) the BZA erred in denying Curry’s request for rehearing because CBS, the owner of the outdoor advertising signs, was not notified of the proceeding that proposed removal of the signs and, therefore, its due process rights were violated.

**CIRCUIT COURT JUDGMENT MODIFYING DECISION OF BZA IS  
AFFIRMED.**

**Division Four holds:**

(1) The BZA erred by conditioning approval of a special use permit for a pawn shop on the removal of two nonconforming outdoor advertising signs. All special use criteria were met for issuing the permit and it was unreasonable for the BZA to thereafter condition issuance of the permit on the removal of lawfully existing nonconforming signs.

(2) As the circuit court’s judgment modifying the decision of the BZA is affirmed on other grounds, it is unnecessary to determine if the BZA erred in denying the request for rehearing.

Opinion by James Edward Welsh, Chief Judge

May 7, 2013

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