

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

=====

**COMPLETE TITLE OF CASE**

PLANNED INDUSTRIAL EXPANSION AUTHORITY OF KANSAS CITY,

Appellant,

v.

IVANHOE NEIGHBORHOOD COUNCIL and  
BROWN-CALDWELL CHRISTIAN SCHOOL,

Respondents.

---

**DOCKET NUMBER WD70655**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** April 27, 2010

---

**Appeal from**

The Circuit Court of Jackson County, Missouri  
The Honorable Justine E. Del Muro, Judge

---

**APPELLATE JUDGES**

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

---

**ATTORNEYS**

William E. Quirk, Daniel R. Zmijewski and Anthony W. Bonuchi  
Kansas City, MO

Attorneys for Appellant,

Allison Bergman, Patrick L. Kenney and Michele P. Gellis  
Kansas City, MO

Attorneys for Respondent Ivanhoe  
Neighborhood Council,

Sherwin L. Epstein and Allen T. Zugelter  
Overland Park, KS

Attorneys for Respondent Brown-Caldwell  
Christian School.

---



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

**PLANNED INDUSTRIAL** )  
**EXPANSION AUTHORITY OF** )  
**KANSAS CITY,** )  
 )  
**Appellant,** )  
**v.** )  
 )  
**IVANHOE NEIGHBORHOOD** )  
**COUNCIL and BROWN-CALDWELL** )  
**CHRISTIAN SCHOOL,** )  
 )  
**Respondents.** )

WD70655

Jackson County

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

This is a condemnation action in which the trial court found that Appellant Planned Industrial Expansion Authority of Kansas City (“Expansion Authority”) failed to fulfill its statutory obligations to conduct good faith negotiations with the owners of the property that the Expansion Authority sought to condemn.

**AFFIRMED AND REMANDED FOR DETERMINATION OF APPROPRIATE APPELLATE ATTORNEYS’ FEES.**

**Division Three holds:**

“Before a court may enter an order of condemnation, the court shall find that the condemning authority engaged in good faith negotiations prior to filing the condemnation petition.” § 523.256 RSMo 2000. Under section 523.253, which section 523.256 incorporates, a condemning authority must submit an offer to the owners of the property to be condemned and, along with the offer, it must submit, among other things, an appraisal of property to be condemned or an explanation with

supporting financial data for its determination of the value of the property. § 523.253.2 RSMo 2000. In this case, the Expansion Authority attempted to comply with § 523.253.2 by submitting an appraisal along with its offer. In such cases, the appraisal must be “made by a state-licensed or state-certified appraiser using generally accepted appraisal practices.” § 523.253.2(2).

The trial court found that appraisals used by the Expansion Authority were not made using generally accepted appraisal practices, and therefore it dismissed the Expansion Authority’s petition.

The Expansion Authority argues that the trial court exceeded its authority in evaluating the credibility of its claim that the appraisers used generally accepted appraisal practices. We hold that the circuit court did not exceed its authority in so doing, and we therefore affirm. Further, we affirm the circuit court’s award of attorneys’ fees and remand for a determination of reasonable appellate attorneys’ fees. § 523.256 RSMo 2000.

**Opinion by: Karen King Mitchell, Judge**

April 27, 2010

\*\*\*\*\*

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.