

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

THE LAMAR COMPANY, LLC, d/b/a LAMAR ADVERTISING OF KANSAS CITY,  
Appellant,

v.

THE CITY OF KANSAS CITY, MISSOURI,  
Respondent.

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**DOCKET NUMBER WD71545**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** November 9, 2010

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**APPEAL FROM**

The Circuit Court of Jackson County, Missouri  
The Honorable W. Brent Powell, Judge

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**APPELLATE JUDGES**

Division One: James M. Smart, Jr., Presiding Judge, and Mark D. Pfeiffer  
and Cynthia L. Martin, Judges

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**ATTORNEYS**

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

THE LAMAR COMPANY, LLC, d/b/a )  
LAMAR ADVERTISING OF KANSAS )  
CITY, )  
)  
Appellant, )  
v. )  
)  
THE CITY OF KANSAS CITY, )  
MISSOURI, )  
)  
Respondent. )

WD71545

Jackson County

Before Division One Judges: James M. Smart, Jr., Presiding Judge, and  
Mark D. Pfeiffer and Cynthia L. Martin, Judges

The Lamar Company appeals the judgment of the Circuit Court of Jackson County granting the motion for summary judgment of the City of Kansas City relating to the validity of a municipal ordinance. In its sole point on appeal, Lamar argues that the trial court erred in concluding that the ordinance in question was a building code ordinance and not a zoning ordinance – subject to the special notice and hearing requirements before passing zoning ordinances. However, because we find that our determination of this matter would have no effect on any present controversy, the appeal is dismissed as moot.

**DISMISSED.**

**Division One holds:**

Lamar filed applications for permits to convert existing billboards into digital billboards. Two days later, Kansas City properly passed an ordinance altering the zoning plan to prevent digital billboards. Lamar initiated a referendum petition which delayed the effective date of the altered zoning plan. In the interim period, Kansas City passed another ordinance which instructed the permit office to deny permits which did not conform to the amended zoning plan.

Though Lamar’s referendum initiative failed and the zoning changes have taken effect, Lamar seeks a judgment declaring that the second ordinance was invalid.

The question of mootness arises in this case because, by its very terms, the ordinance challenged is not presently applicable to the issue of whether or not Lamar’s permits should be issued. Consequently, unless Lamar can establish that the ordinance worked to deprive them of a vested property right, its appeal is moot. We find that Missouri law clearly establishes that, absent a nonconforming use exception, the application for permits, even the grant of permits, does not give a property owner a vested right in the permit. Furthermore, we note that to establish a nonconforming use an owner must take substantial steps towards that use before the enactment of law that proscribes that activity and that those steps must be taken in reasonable reliance on the existing law. Because Lamar did not establish such use, the current ordinance controls and Lamar’s claim on appeal is moot.

**Opinion by: Mark D. Pfeiffer, Judge**

November 9, 2010

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