

Bond Case Briefs

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ZONING & PLANNING - MISSOURI

Antioch Community Church v. Board of Zoning Adjustment of City of Kansas City

Supreme Court of Missouri, en banc - April 3, 2018 - S.W.3d - 2018 WL 1599776

Church filed petition for writ of certiorari seeking review of decisions by city's board of zoning adjustment denying church's request for nonuse zoning variance for digital display on sign in front of church building and upholding citation issued against church for violating city's sign ordinance.

The Circuit Court entered judgment in favor of church. Board appealed.

On transfer from the Court of Appeals, the Supreme Court of Missouri held that:

- Standard of review for all types of variances from municipal zoning ordinances is whether the decision is supported by competent and substantial evidence, abrogating *Highlands Homes Association v. Board of Adjustment*, 306 S.W.3d 561, *State ex rel. Branum v. Board of Zoning Adjustment of City of Kansas City*, Mo., 85 S.W.3d 35, and *Hutchens v. St. Louis County*, 848 S.W.2d 616;
- Presence of digital lettering on monument sign in front of church building did not change the sign type from monument sign to digital sign under city's zoning code, and thus, board had the authority under the zoning code to grant church's request for nonuse zoning variance;
- Church did not show practical difficulties in carrying out church's use of property as church without nonuse variance, and thus, denial of variance was warranted; and
- Applicant was not required to show economic hardship to obtain a nonuse variance by showing that the land in question could not yield a reasonable return if the variance was not granted when the cost of removing an improvement was asserted as a reason for the variance, abrogating *Highlands Homes Association v. Board of Adjustment*, 306 S.W.3d 561, *State ex rel. Branum v. Board of Zoning Adjustment of City of Kansas City*, Mo., 85 S.W.3d 35, and *State ex rel. Holly Investment Co. v. Board of Zoning Adjustment of Kansas City*, 771 S.W.2d 949.