

STATE OF MICHIGAN
COURT OF APPEALS

CIERRA BUILDING COMPANY,

Plaintiff-Appellee,

v

CHARTER TOWNSHIP OF HARRISON,

Defendant-Appellant.

UNPUBLISHED
February 17, 2009

No. 280628
Macomb Circuit Court
LC No. 05-004997-CZ

Before: Fort Hood, P.J. and Wilder and Borrello, JJ.

Wilder, J., (*concurring*).

Section 3.09 of Harrison Township's Zoning Ordinance states: "*No* dwelling shall be erected in an commercial, industrial or other nonresidential districts. However, the sleeping quarters of a watchman or a caretaker, not constructed as permanent sleeping or housekeeping facilities, may be permitted in such districts in conformance with the specific requirements of the particular district." (Emphasis added). As such, I would conclude from the language of section 3.09 that plaintiff was specifically precluded from building residential dwellings on its nine lots. Therefore, I would also reverse the trial court's order granting a declaratory judgment in favor of plaintiff, albeit on a different ground from that articulated by the majority.

/s/ Kurtis T. Wilder