

STATE OF MICHIGAN
COURT OF APPEALS

MICHIGAN BASIC PROPERTY INSURANCE
ASSOCIATION,

FOR PUBLICATION
June 8, 2010

Petitioner-Appellee,

v

OFFICE OF FINANCIAL AND INSURANCE
REGULATION and COMMISSIONER OF THE
OFFICE OF FINANCIAL AND INSURANCE
REGULATION,

No. 293766
Ingham Circuit Court
LC No. 08-000950-AA

Respondents-Appellants.

Advance Sheets Version

Before: BANDSTRA, P.J., and FORT HOOD and DAVIS, JJ.

BANDSTRA, P.J. (*concurring*).

I concur with the majority that this matter must be reversed for the reasons stated. In addition, I write separately to point out a complementary reason that reversal is warranted. As the majority notes, the statutory language at issue does not specify the subject matter to be calculated as a weighted average: “rates charged in each territory by the pool for home insurance shall be equal to the weighted average of” an unspecified variable pertaining to certain market insurer groups. MCL 500.2930a(1). While the statute is thus ambiguous, logically it seems quite defensible to conclude that the subject matter of the “weighted average” is the “rates charged” specified earlier in this clause. The rates charged by the subject insurer groups, again as a matter of logic, are the amounts that people actually pay for their insurance, i.e., the premiums, which result from base rates as they have been reduced by applicable discounts. This is respondents’ position, and this analysis belies petitioner’s argument that the missing variable to be averaged is, simply, the base rates. Thus, the majority’s analysis correctly leads us to conclude what a close reading of the statutory language itself suggests.

/s/ Richard A. Bandstra