

Gerald Bailey and Barbara Bailey-Schmidt v. Massachusetts Bay Insurance Company

Held March 25, 2014 – Docket No. INS-14-2026

Decision Issued: April 2, 2014

The insured requested a hearing regarding the nonrenewal of a homeowners policy due to an increase in hazard because the insured dwelling is a three-family unit. The company argued that the dwelling type is not eligible for coverage under this homeowners form, although the company had insured the dwelling for several years.

Held: For the insured. The Maine Property Insurance Cancellation Control Act permits nonrenewal of a policy for a reason that is “a good faith reason and related to the insurability of the property or a cancellation ground pursuant to section 3049.” 24-A M.R.S.A. § 3054. The scope of the Act defined in § 3048 includes owner occupied property used solely for residential purposes with up to four units. Section 3054 further states that a “statement from the insurer that the risk does not meet the insurer’s underwriting guidelines alone is not considered sufficient proof or evidence.” The company testified that the property is not eligible for coverage under its homeowners policy because it is a three-family dwelling. A company’s eligibility requirements for a policy are analogous to underwriting guidelines, therefore, eligibility requirements are insufficient to prove that the insurer’s reason is a good faith reason related to the insurability of the property. Other issues raised at the hearing but not included in the stated reason for the nonrenewal were not considered. Accordingly, nonrenewal of the policy for the cited reason is not permitted.