

# High court upholds 1976 jump in water rates

By Tim Richard  
staff writer

The Michigan Supreme Court has upheld a 10-year-old, 39 percent increase in the water rates which the city of Detroit charges 76 suburban communities.

In a 7-0 opinion, the high court found "no basis" for the suburban contention that "the burden lay on the defendant

city (Detroit) to show reasonableness" — hence the rate hike was assumed to be reasonable.

Justice James H. Brickley, a Detroit city councilman in the 1960s and former lieutenant governor, wrote the opinion. It reversed a unanimous Court of Appeals opinion which would have sent the case back to Circuit Court for more proofs by Detroit.

Only water rates — not sewage

treatment rates — were involved.

The decision prompted one critic of Detroit charges — state Rep. John Bennett, D-Redford — to pledge renewed legislative effort to win suburban representation on the rate-setting Detroit Water Board.

SUBURBAN customers, led by the cities of Livonia and Plymouth and joined by others in four counties, failed in their argument that Detroit was trying to make too big a profit on water sales.

It started in 1976 when Detroit levied a 39 percent rate increase on 95 community customers.

Detroit contended that 1) operation and maintenance costs had risen 43 percent in four years, 2) debt reserve requirements were higher and 3) a five-year capital improvement program had to be financed 75 percent out of

operating revenue.

There was general agreement by the parties that the projection of new revenue needs was conservative," the Supreme Court noted, but much disagreement over how to allocate the costs.

THE SUBURBAN claim — "essentially not denied by the city of Detroit" — was that Detroit was charging the suburbs a nearly 9.5 percent rate of return on investment (profit) but charging Detroiters a "negative rate of return" (absorbing a loss).

The suburbs called that unreasonable because it "amounts to subsidy of one rate payer by another."

In excluding its rates, Detroit used a "utility" method, employing the long-term depreciation plus a rate of return on investment. Detroit paid only 4.5 percent interest on its bonds, and sub-

urbs said this "cost of capital" method should have been a factor in rates.

The suburbs filed their suit in Oakland Circuit Court, but it was assigned to visiting Judge William R. Peterson of Wexford County. Peterson found "no cause for action," upholding the Detroit rate.

THE APPEALS Court panel — headed by Myron J. Walsh of Detroit — reversed the circuit judge and sent the case back to him for "an extensive evi-

dentary hearing" and more proofs by Detroit.

The Supreme Court, however, overruled the appeals court requirement that the cost of capital method be used in rate-making.

It also said the appeals court erred in ordering extensive new hearings because "we find no basis for the (suburban) contention that the burden lay on (Detroit) to show reasonableness." It noted utility cases had upheld a 10 percent rate of return.

## Year wait for transcript

It took nearly 10 years for the Detroit water rate case to wind through Michigan's three levels of courts. Why so long?

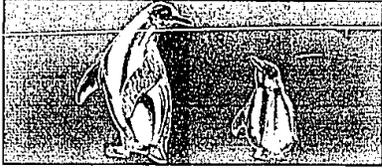
Reason for one delay was revealed in a footnote to the Supreme Court's 23-page opinion. There was a time gap of a year between circuit court hearings and attorneys' oral arguments. The footnote said:

"This one-year delay was caused by

an apparent lack of cooperation on the part of the court reporter. Because the reporter failed to supply the transcript of the trial proceedings within the time agreed upon, the judge was forced to find the reporter in contempt of court, after having issued a bench warrant ... to obtain his appearance in court.

The transcript eventually supplied was, according to the trial judge, "abysmal, containing numerous errors."

### HEART STOPPERS



This charming pair promises to become your all-time favorites, by winning you compliment after compliment.

In 14k gold with sapphire eyes.  
Large, \$350. Small, \$175.



**CHARLES W. WARREN**  
JEWELER SINCE 1927

MONSIEUR MALL, 11216 RIVER CHASE  
EASTLAND—WESTLAND—BEECHWOOD—LAKESHORE—FAIRLANS—OAKLAND  
TWELVE OAKS

Use our new Silver Card on all national American Express, Visa and MasterCard.

### drapery boutique

**47% OFF WALLPAPER** 47% off 150 selected Special Order Books. 40% off all other Special Order books in our library. Special Order Books. 40% off all other Special Order books in our library. Coupons valid at time of order only. No charges accepted. Min. \$50 at sale price, otherwise discount is 35%. Freight and Handling added. Offer expires Sat., Nov. 30, 1985. Wallpaper fabrics 20% Off

**Custom Vertical Blinds**  
SAVE **75% OFF**  
UP TO **75% OFF** Selected: Shade Cloths • P.V.C. • Aluminum

Discount	75% Off	75% Off	75% Off
Size	Shade Cloth	P.V.C. Flat	Aluminum
102x84 1W	183.00	40.75	127.00
122x84 1W	219.00	49.25	150.00
142x84 1W	255.00	57.75	173.00
162x84 1W	291.00	66.25	200.00
182x84 1W	327.00	74.75	227.00
202x84 1W	363.00	83.25	254.00
222x84 1W	400.00	91.75	281.00
242x84 1W	436.00	100.25	308.00
262x84 1W	472.00	108.75	335.00
282x84 1W	508.00	117.25	362.00
302x84 1W	544.00	125.75	389.00

ALL VERTICALS ARE NOT CREATED EQUAL  
Measuring, installation & design service  
\$100.00 Minimum Charge

**1' Horizontal Blinds**  
Ball Classic **62 1/2% Off**  
Ball Customizer **67 1/2% Off**  
Concord Heavy Duty **70% Off**

NOT FRIGHT & NO HANDLING CHARGES

HALSTED & GRAND RIVER Since 1959  
37041 Grand River, Detroit, MI 48221  
Call 313-487-1111

ORCHARD & 14 MILE CENTER  
181 Orchard St., Detroit, MI 48226  
Call 313-487-1111



**COUPON SPECIAL**  
**\$229.95**

COUPON GOOD THRU NOVEMBER 30, 1985

Bring this coupon into Bedrooms For Kids and take \$140 off the price of our versatile Amisco bunk bed. This clean-lined design, constructed with a heavy-gauge steel tubular frame, is available in red, white or blue. Each bed accommodates a standard twin mattress and bedding (not included). It's in stock, ready for immediate delivery. Regular price \$369.95, now \$229.95 with this coupon!

Stop in and see all the furniture essentials and fanciful accessories to make your child's room a special place. At very affordable prices. And ask about our in-home design service — it's free!

**BEDROOMS FOR KIDS**  
Birmingham  
The Corners — Southfield Rd. & 13 Mile Rd.  
540-5551

# VIC TANNY

## 2 FOR 1 SPECIAL



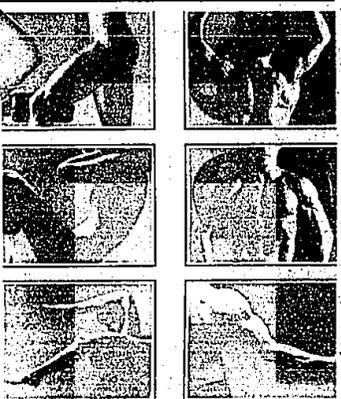
Good workout. Great savings. Get it all now at Vic Tanny!

Now is the perfect time to take advantage of special savings on one of the best workout programs available. Because right now, Vic Tanny is offering 2 years of membership for the price of the first year alone.

You'll get all the latest facilities, the best equipment and more at Vic Tanny... America's number 1 health club chain. There's never been a better time to save on a better workout. Men...women, join Vic Tanny today!

### 2 YEARS OF MEMBERSHIP FOR THE PRICE OF THE FIRST YEAR ALONE

**FINAL DAYS**  
Hurry...offer ends soon!



**VIC TANNY EXECUTIVE HEALTH & RAGUET CLUB**  
6420 Telegraph Rd. at Maple Rd. — Call 855-2300