

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **IMMUNITY - NEW JERSEY**

### **Lee v. Brown**

**Supreme Court of New Jersey - February 21, 2018 - A.3d - 2018 WL 987870**

Decedents' estates and several individuals injured while trying to escape fire in multi-unit home brought action against city, electrical inspector employed by city, and other city employees.

Following consolidation, the Superior Court ruled that qualified immunity applied to both city and the inspector. City and electrical inspector appealed. The Superior Court, Appellate Division, affirmed. Leave for appeal was granted.

The Supreme Court of New Jersey held that:

- City electrical inspector was not required to follow a prescribed course of action by law when investigating and resolving code violations, and thus, his actions or inactions were not subject to liability under an ordinary negligence standard, but rather, would be determined based on whether they constituted a failure to enforce the law, and
- Both city and its electrical inspector were entitled to absolute immunity under the State Tort Claims Act (TCA).

City electrical inspector was not required to follow a prescribed course of action by law when investigating and resolving code violations, and thus, because his actions were discretionary and not ministerial in nature, he would not be subject to liability under an ordinary negligence standard for any resulting injuries; inspector had a broad range of discretion in investigating and resolving violations, such as issuing a notice to repair the issue, a summary offense, or seeking a shut-off through departmental procedure.

Both city and its electrical inspector were entitled to absolute immunity under the State Tort Claims Act (TCA), when the gravamen of complaints brought by decedents' estates and several individuals injured while trying to escape fire in multi-unit home was that the fire was caused by the inspector's ineffective enforcement of the construction code, a failure to enforce the law; inspector's prior conduct of inspecting and issuing notices of violation were not sufficient to submit him and city to liability, and the fire, allegedly caused by faulty wiring on the electrical panels, was not the result of any corrective action taken by the inspector.