

# **Bond Case Briefs**

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## **IMMUNITY - IDAHO**

### **Lamont Bair Enterprises, Inc. v. City of Idaho Falls**

**Supreme Court of Idaho, Pocatello, September 2019 Term - December 6, 2019 - P.3d - 2019 WL 6646503**

Landowner brought negligence action against city after broken water main cracked property's cement floor and flooded basement.

The District Court granted summary judgment to city. Owner appealed.

The Supreme Court held that:

- City's decision to adopt water facility plan was discretionary, as could support application of discretionary function exception to governmental liability under Idaho Tort Claims Act (ITCA), and
- Finding such decision to be discretionary comported with policies underlying discretionary function exception to liability.

City's decision to adopt water facility plan, which included plans for pipeline replacement and prioritization, was a discretionary rather than operational decision, as could support finding that discretionary function exception to governmental liability under Idaho Tort Claims Act (ITCA) applied in landowner's negligence action against city after broken water main damaged landowner's property; city sought to create and adopt plan based on existing infrastructure of city and its current resources, and plan was based on budgetary constraints and social and public policy considerations.

Finding city's decision to adopt water facility plan, including plans for pipeline replacement, to be discretionary comported with policies underlying discretionary function exception to governmental liability under Idaho Tort Claims Act (ITCA), and therefore city had immunity from landowner's negligence action arising out of broken water main damaging landowner's property; identifying, analyzing, and adopting solutions to meet a city's aging infrastructure needs were exactly the kind of decisions the legislature intended to be free of judicial second guessing, and it allowed local government to feel uninhibited by threat of tort liability when creating and maintaining plans for future infrastructure needs.