

Bond Case Briefs

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LIABILITY - ILLINOIS

Berz v. City of Evanston

Appellate Court of Illinois, First District, Sixth Division - September 27, 2013 - N.E.2d - 2013 IL App (1st) 123763

Bicyclist filed complaint against city alleging negligence, stemming from injury-causing incident in which bicyclist struck pothole while riding in alleyway.

Bicyclist contended the circuit court erred in dismissing his third amended complaint where section 3-102(a) of the Tort Immunity Act did not immunize defendant from liability for his injury because he was an intended user of the alleyway.

The Appellate Court held that:

- City did not reasonably exercise its police power in arbitrarily eliminating bicyclist's cause of action;
- Subsequent amendment to municipal code did not demonstrate bicyclists were intended users at time of incident;
- Bicyclist was permitted user, rather than intended user; and
- Bicycle was not vehicle for purposes of determining city's liability.

In conclusion, because plaintiff was not an intended user of the alley in which he sustained injuries, defendant is immunized from liability pursuant to section 3-102(a) of the Tort Immunity Act.