

# **Bond Case Briefs**

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## **EMINENT DOMAIN - IOWA**

### **Clarke County Reservoir Com'n v. Abbott**

**Supreme Court of Iowa - April 10, 2015 - N.W.2d - 2015 WL 1586257**

Joint public-private county reservoir commission filed a declaratory judgment action seeking a declaration that its proposed project to build a public reservoir for drinking water was a public use that would allow the commission to condemn private land. Landowners challenged the authority of the commission to initiate the condemnation proceeding. Following a bench trial, the District Court concluded that the project qualified as a public use. Landowners appealed.

The Supreme Court of Iowa held that:

- Appeal was not moot, and
- As a matter of first impression, the commission, because it included private members, could not itself exercise the power of eminent domain or serve as an acquiring agency seeking a declaratory judgment of public use.

County reservoir commission, organized under joint governmental activity statute and including private members lacking the power of eminent domain, could not itself exercise the power of eminent domain or serve as an acquiring agency seeking a declaratory judgment of public use. Only the legislature had the authority to delegate the power of eminent domain, and the members of the commission could not grant or delegate their own powers of eminent domain to the commission, but, rather, could only exercise their individual powers jointly.