

# **Bond Case Briefs**

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## **BRIDGES - NEW YORK**

### **Town of Aurora v. Village of East Aurora**

**Court of Appeals of New York - November 20, 2018 - N.E.3d - 2018 WL 6047999 - 2018 N.Y. Slip Op. 07923**

Town brought action seeking declaratory judgment that village was responsible for repair costs for bridge. Village asserted counterclaim seeking declaratory judgment that town was responsible for such costs.

The Supreme Court, Erie County, declared that town was responsible for repair costs. Town appealed. The Supreme Court, Appellate Division, reversed. Village appealed.

The Court of Appeals held that:

- Town was responsible for repair costs for bridge, but
- Village was not entitled to declaration with respect to repair costs for any other bridge.

Town, rather than village, was responsible for repair costs for bridge, even though village board of trustees had approved construction and financing of bridge in connection with development of residential subdivision over 40 years ago, since default rule was that towns were responsible for bridges within their boundaries, village could only assume control through adoption of resolution by its board of trustees or express agreement with town, both of which were subject to permissive referendums, and village had never entered into any express agreement with town and did not undertake procedures for any permissive referendum in connection with its approval to construct and finance bridge.

Village was not entitled to declaration on appeal with respect to whether village or town was responsible for repair costs beyond those for specified bridge, even if matter of other bridges was properly raised before trial court, since facts pertaining to other bridges were not before the Court of Appeals.