

# **Bond Case Briefs**

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## **AIRPORTS - IOWA**

### **Carroll Airport Commission v. Danner**

**Supreme Court of Iowa - May 10, 2019 - N.W.2d - 2019 WL 2063392**

Local airport commission petitioned for abatement of a nuisance, seeking to require farmer to cease operation of and remove his 12-story grain leg/bucket elevator near municipal airport despite the Federal Aviation Administration's (FAA) issuance of a no-hazard letter concerning the structure.

The District Court granted petition following bench trial and issued an injunction. Farmer appealed. The Court of Appeals affirmed. Farmer applied for further review, which was granted.

As matters of first impression, the Supreme Court held that:

- Federal Aviation Act did not expressly preempt state and local restrictions on height of structures in or near flight paths;
- Doctrine of conflict preemption did not apply;
- Doctrine of field preemption did not apply;
- The grain leg/bucket elevator was an aviation hazard constituting a nuisance; but
- A \$200 daily penalty for each day the nuisance continued to stand unabated was inequitable.