

# **Bond Case Briefs**

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## **IMMUNITY - IOWA**

### **Breese v. City of Burlington**

**Supreme Court of Iowa - June 12, 2020 - N.W.2d - 2020 WL 3107685**

Bicyclist brought negligence action against city arising from accident in which bicyclist struck tree branch while riding on sewer box that was connected to a public pathway and fell approximately ten feet from sewer box to ground, alleging negligent conduct in connecting sewer box to pathway without providing guardrails and in failing to provide warning signs.

The District Court granted summary judgment for city. Bicyclist appealed.

The Supreme Court held that:

- Public-duty doctrine did not shield city from its affirmative acts;
- Sewer box was a “public improvement” under the state-of-the-art statutory immunity defense;
- City, as party invoking state-of-the-art defense, had burden to plead and prove it as affirmative defense; abrogating *Felderman v. City of Maquoketa*, 731 N.W.2d 676; *Fischer v. City of Sioux City*, 695 N.W.2d 31; *Connolly v. Dallas County*, 465 N.W.2d 875; and
- Factual issues as to whether city met safety and engineering standards at time of creation of trail precluded summary judgment.