

principal place of business located at One Washington Street, Hempstead, New York, County of Nassau.

4. This proceeding is brought pursuant to Article 78 of the Civil Procedure Law and Rules in the nature of mandamus to compel Respondents to comply with all applicable provisions of New York State General Business Law, New York State Zoning Law, Hempstead Town Zoning Law, the United States Constitution, and the Constitution of the State of New York.

Nature of the Proceeding

5. This proceeding is brought to compel Respondents to rescind the provisions of the Town's Building Zone Ordinance, in § 336G(3) of Article XXXIII, that mandates gasoline station operators provide compressed air at no charge in cases of an emergency. Hereinafter these provisions shall be referred to as the Town's "Emergency Free Air Law". A copy of said law is attached hereto as Exhibit 1.
6. The Town's "Emergency Free Air Law" preempts New York State's General Business Law (GBL) 396-X which allows gasoline service stations to charge for compressed air. A copy of said law is attached hereto as Exhibit 2.