

**EXHIBIT 7**

**Plaintiff's Third Cause of Action from  
the "Free Air Law" Litigation  
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**As and For a Third Cause of Action**

145. The Plaintiffs repeat the allegations of paragraphs 1 through 144 above, as if fully set forth herein.

146. The Resolution is not justified by public safety concerns, which are fully accommodated by the existing state law that preempts the field on this issue.

147. Municipalities, in general, have the authority to adopt local laws to the extent that they are not inconsistent with the State constitution or a general State law.

148. The Town Board does not have the authority to regulate services in an industry that is already heavily regulated by the State.

149. There is a need for statewide uniformity regarding heavily regulated businesses like gas stations.

150. Under the doctrine of preemption, a local law is inconsistent with State law -- and cannot stand -- where it prohibits something that would be permissible under State law.