

17. The Plaintiff's third cause of action (in the "Free Air Law" litigation), in pertinent part, provides :

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.

152. By reason of the forgoing, the Plaintiffs are entitled to a judgment, pursuant to CPLR § 3001, declaring Resolution No. 1007-2016, amending § 336.G(3) of the Building Zone Ordinance of the Town of Hempstead, is arbitrary, unreasonable, discriminatory, confiscatory, void, unconstitutional on its face and as applied to the Plaintiffs, and its enforcement should be enjoined.

18. It follows that the "Emergency Free Air Law" also preempts New York State Law since the "Emergency Free Air Law" still mandates how gasoline stations should provide compressed air, which is governed by New York State GBL 396-X.