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Town of Oyster Bay v. Lizza Industries, Inc.

Court of Appeals of New York - December 17, 2013 - N.E.2d - 2013 N.Y. Slip Op. 08370

Town in Nassau County and two villages in Suffolk County brought actions for continuing public nuisance against contractors that, pursuant to public works contracts with counties, constructed public sewers in the '70s and '80s. Plaintiffs alleging that areas surrounding sewer lines had settled, causing damage to plaintiffs' adjacent roadways, sidewalks, and curbs.

The Court of Appeals held that:

- Six-year statute of limitations for actions for breach of contract was applicable;
- Claims accrued for limitations purposes upon completion of construction; and
- Assuming that claims could be characterized as continuing public nuisance, continuous wrong doctrine was not applicable.

Claims were subject to six-year statute of limitations for actions for breach of contract, as the gravamen of the complaints was that contractors, through their alleged faulty construction, breached their duty to town and villages, as third-party beneficiaries of public works contracts, under contracts' protection clauses requiring contractors to restore town's and villages' roadways to their usual condition after sewer construction was complete.