

# **Bond Case Briefs**

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## **EMINENT DOMAIN - NEW YORK**

### **Yu v. Incorporated Village of Oyster Bay Cove**

**United States District Court, E.D. New York - January 12, 2022 - F.Supp.3d - 2022 WL 130557**

Property owners filed § 1983 action village, its code enforcement officer, and building inspector alleging violations of substantive due process rights and Takings Clause arising out of village's enforcement of its village code concerning construction, conservation, nuisance, and animal control.

Defendants moved to dismiss.

The District Court held that:

- Statute of limitations commenced when village planning board denied owners' site plan for construction permit
- *Rooker-Feldman* did not bar court from maintaining jurisdiction over owners' claims;
- Denial of permits did not violate owners' substantive due process rights;
- Fines assessed by village did not violate owners' substantive due process rights; and
- Rejection of owners' site plan did not effect regulatory taking.

Village's rejection of property owners' plan to permit alterations to existing building, expand existing driveway, construct new piers and gate, and maintain existing deck did not effect regulatory taking, even if denial resulted in property devaluation; village did not effectively deprive owners of any economic use of property, which could still be used as residence, and there was no allegation that village code—which was intended to protect wetlands and promote public safety—interfered with any investment-backed expectations.