Bond Case Briefs

Municipal Finance Law Since 1971

POLITICAL SUBDIVISIONS - NEW YORK

Drake v. Village of Lima

Supreme Court, Appellate Division, Fourth Department, New York - November 17, 2023 - N.Y.S.3d - 2023 WL 7982101 - 2023 N.Y. Slip Op. 05833

Village residents brought action against village and village department of public works seeking damages and injunctive relief arising from defendants' alleged failure to properly maintain and operate sewer main, causing sewage to backflow into residents' home, asserting causes of action for, inter alia, negligence, trespass, public nuisance, private nuisance, and inverse condemnation or de facto taking.

The Supreme Court, Livingston County, granted in part and denied in part defendants' motion to dismiss. Parties appealed.

The Supreme Court, Appellate Division, held that:

- Village and village department of public works failed to establish that department was administrative unit of village that lacked capacity to be sued;
- Residents' notice of claim included information sufficient to enable defendants to investigate claim for damages for personal injury to deceased resident;
- Residents failed to state trespass claim;
- Residents' private nuisance cause of action was duplicative of negligence claim;
- Residents failed to state claim for inverse condemnation or de facto taking;
- Residents failed to state claim for public nuisance; and
- Residents failed to state claim for injunctive relief.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com