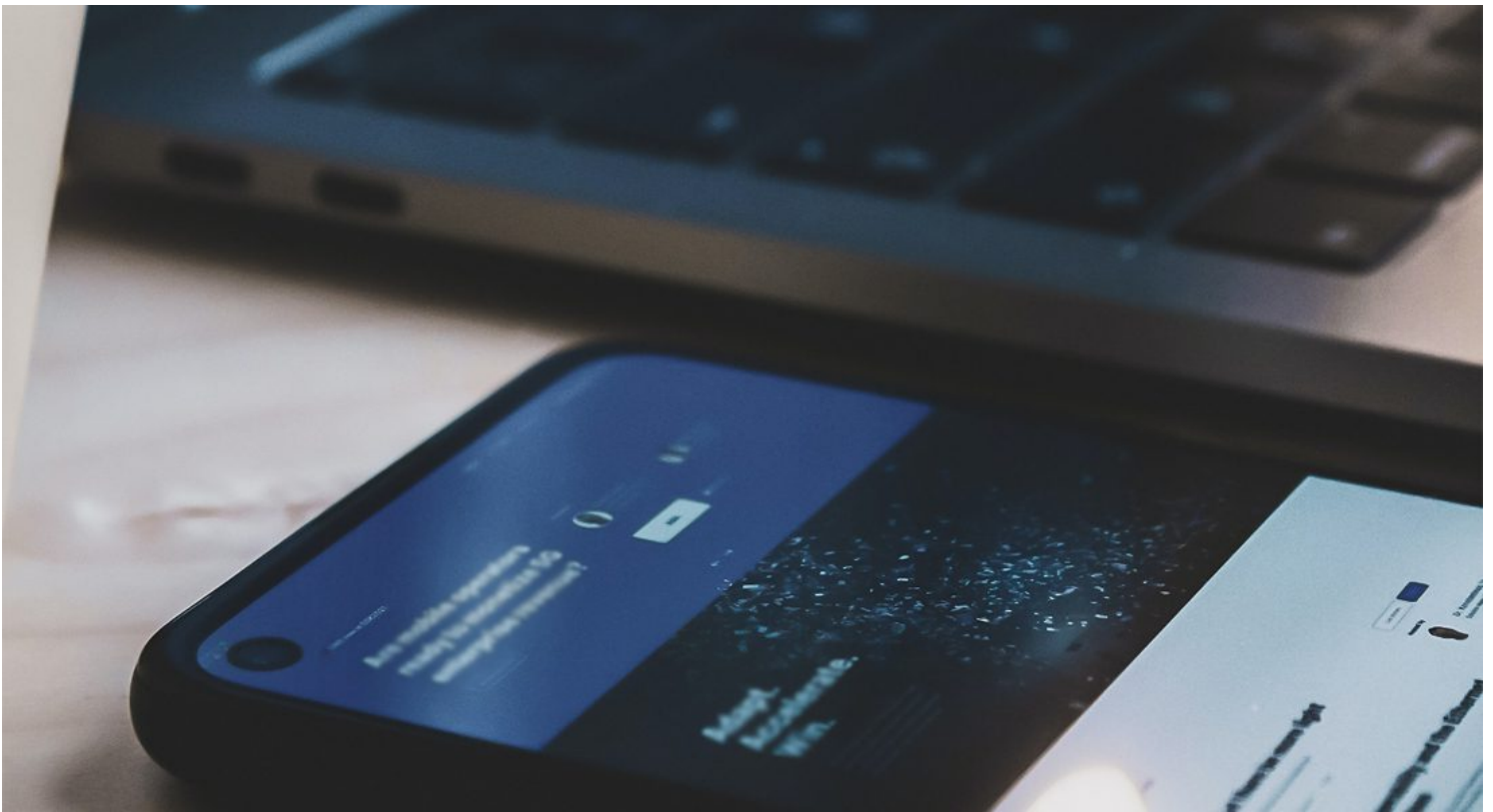


NEWS & INSIGHTS

Revitalization Reposal

INSIGHTSLEGAL UPDATE

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Reposal for Improvement: Pennsylvania's Statutory Time Limitation on Construction Improvement Claims.

Last week, the *New York Times* reported technology-giant [Google's plans to purchase New York's iconic Chelsea Market](#). Initially, a National Biscuit Company baking facility, construction of Chelsea Market commenced in the 1890s. Throughout the past century, the bakers left, and Chelsea Market is now a commercial hub, housing food and shopping centers, and business offices. The revitalization and purchase of historic facilities such as Chelsea Market raises important questions regarding the construction of improvements to such properties and any limitations on claims arising from such efforts.

Pennsylvania's statute of repose, 42 Pa. C.S. § 5536, protects persons "lawfully furnishing the design, planning,

supervision or observation of construction” or “construction of an improvement to real property” from liabilities associated with such construction if more than twelve (12) years have elapsed between the completion of the improvements to the real estate and a resulting injury. *McConnaughey v. Building Components, Inc.*, 637 A.2d 1331, 1333 (Pa. 1994) (OAJC); accord *Noll v. Harrisburg Area YMCA*, 643 A.2d 81, 84 (Pa. 1994). To be protected by Pennsylvania’s statute of repose, a proponent must establish: (1) she supplied an improvement to real property; (2) more than twelve (12) years have elapsed between the completion of the improvement and a resulting deficiency or injury; and (3) her construction activity was within the class of actions that the statute intended to protect. *Id.* Pennsylvania’s Supreme Court has acknowledged that “the history of the statute suggests that it was passed through the efforts of the American Institute of Architects, the National Society of Professional Engineers, and the Association of General Contractors of America to protect these professions from suit long after improvements were completed.” *Noll*, 643 A.2d at 85-86.

All parties involved with the construction of improvements to existing facilities, such as Chelsea Market, should be aware of the time frame during which claims relating to the improvements may be made and if any statute of repose applies to limit such claims.

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