

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 09-02582

PRESENT: SMITH, J.P., FAHEY, CARNI, GREEN, AND GORSKI, JJ.

IN THE MATTER OF LEGACY AT FAIRWAYS, LLC,
US HOMES CO., INC., MARK IV CONSTRUCTION
CO., INC., AND CHRISTOPHER A. DIMARZO,
PETITIONERS-PLAINTIFFS-RESPONDENTS,

V

ORDER

SEAN MCADOO, ALLAN J. BENEDICT, ZONING BOARD
OF APPEALS OF TOWN OF VICTOR, AND TOWN OF
VICTOR, RESPONDENTS-DEFENDANTS-APPELLANTS.
(APPEAL NO. 2.)

THE WOLFORD LAW FIRM LLP, ROCHESTER (MICHAEL R. WOLFORD OF COUNSEL),
FOR RESPONDENTS-DEFENDANTS-APPELLANTS.

GATES & ADAMS, P.C., ROCHESTER (DOUGLAS S. GATES OF COUNSEL), FOR
PETITIONERS-PLAINTIFFS-RESPONDENTS.

Appeal from an order of the Supreme Court, Monroe County (Thomas A. Stander, J.), entered May 15, 2009 in a CPLR article 78 proceeding and a declaratory judgment action. The order, *inter alia*, granted the motion of petitioners-plaintiffs for summary judgment.

It is hereby ORDERED that said appeal is unanimously dismissed without costs (*see Hughes v Nussbaumer, Clarke & Velzy*, 140 AD2d 988; *Chase Manhattan Bank, N.A. v Roberts & Roberts*, 63 AD2d 566, 567; *see also* CPLR 5501 [a] [1]).

Entered: August 20, 2010

Patricia L. Morgan
Clerk of the Court