

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

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**CA 15-01180**

PRESENT: SMITH, J.P., CENTRA, DEJOSEPH, CURRAN, AND SCUDDER, JJ.

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IN THE MATTER OF RESCUE MISSION OF UTICA, INC.,  
PETITIONER-RESPONDENT,

V

ORDER

CITY OF UTICA, ET AL., RESPONDENTS,  
AND MICHAEL S. RIZZO, RESPONDENT-APPELLANT.  
(APPEAL NO. 1.)

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PETER J. DIGIORGIO, JR., UTICA, FOR RESPONDENT-APPELLANT.

SCHMITT & LASCURETTES, LLC, UTICA (WILLIAM P. SCHMITT OF COUNSEL), FOR  
PETITIONER-RESPONDENT.

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Appeal from a judgment (denominated order) of the Supreme Court, Oneida County (Erin P. Gall, J.), entered March 17, 2014 in a CPLR article 78 proceeding. The judgment granted the petition, adjudged that petitioner's use of its property is legal and reversed the determination of respondent Zoning Board of Appeals of the City of Utica.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: June 10, 2016

Frances E. Cafarell  
Clerk of the Court