

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

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CA 23-01077

PRESENT: LINDLEY, J.P., CURRAN, BANNISTER, GREENWOOD, AND NOWAK, JJ.

IN THE MATTER OF ROCHESTER GENESEE
REGIONAL TRANSPORTATION AUTHORITY,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

JOHN R. STENSRUD AND MARIA B. STENSRUD,
RESPONDENTS-APPELLANTS.

REFERMAT & DANIEL PLLC, ROCHESTER (JOHN T. REFERMAT OF COUNSEL), FOR
RESPONDENTS-APPELLANTS.

BOND, SCHOENECK & KING PLLC, SYRACUSE (TIMOTHY N. MCMAHON OF COUNSEL),
FOR PETITIONER-RESPONDENT.

Appeal from a second amended judgment of the Supreme Court,
Monroe County (Daniel J. Doyle, J.), entered December 13, 2022. The
second amended judgment awarded respondents money damages.

It is hereby ORDERED that the second amended judgment so appealed
from is unanimously affirmed without costs.

Memorandum: Respondents appeal from a second amended judgment
that awarded them \$509,000, plus interest and costs, after a trial in
this condemnation proceeding. We reject respondents' contention that
Supreme Court's award was not supported by evidence in the record.
Where, as here, a court determines that "capitalization of income is
the proper valuation procedure and one expert utilizes that method, a
court is not required to adopt that testimony per se but may use all
the evidence in the record in order to establish fair market value"
(*Matter of City of New York [Oceanview Terrace]*, 42 NY2d 948, 949
[1977]). We conclude that the court's determination of the property's
value is based on a fair interpretation of the evidence (*see generally*
Thoreson v Penthouse Intl., 80 NY2d 490, 495 [1992], *rearg denied* 81
NY2d 835 [1993]; *Matter of Rochester Urban Renewal Agency v Lee*, 83
AD2d 770, 770 [4th Dept 1981]).

We have reviewed respondents' remaining contention and conclude
that it does not warrant modification or reversal of the second
amended judgment.

Entered: May 3, 2024

Ann Dillon Flynn
Clerk of the Court