

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

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CA 10-02087

PRESENT: SCUDDER, P.J., CENTRA, CARNI, SCONIERS, AND GREEN, JJ.

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ROBERT C. OAKES AND JANICE L. OAKES,  
PLAINTIFFS-APPELLANTS-RESPONDENTS,

V

MEMORANDUM AND ORDER

BIELER ENTERPRISES, INC.,  
DEFENDANT-RESPONDENT-APPELLANT.

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GREGORY S. OAKES, PARISH, FOR PLAINTIFFS-APPELLANTS-RESPONDENTS.

MACKENZIE HUGHES LLP, SYRACUSE (RYAN T. EMERY OF COUNSEL), FOR  
DEFENDANT-RESPONDENT-APPELLANT.

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Appeal and cross appeal from an order and judgment (one paper) of the Supreme Court, Oswego County (James W. McCarthy, J.), entered August 3, 2010. The order and judgment awarded plaintiffs money damages upon an inquest.

It is hereby ORDERED that the order and judgment so appealed from is unanimously affirmed without costs.

Memorandum: We affirm for reasons stated in the decision at Supreme Court. We add only that, contrary to defendant's contention, the court did not abuse its discretion in permitting the licensed real estate broker called by plaintiffs to testify as an expert with respect to the damages sustained by them based on the loss of use of their property (*see generally Steinbuch v Stern*, 2 AD3d 709, 710). Further, we note that the court did not err in assessing those damages based upon the testimony of plaintiffs' expert, which was not challenged by any opposing expert testimony presented by defendant (*see Matter of Lawrence v 5 Harrison Assoc.*, 295 AD2d 131, 132).

Entered: April 29, 2011

Patricia L. Morgan  
Clerk of the Court