

NEW YORK STATE  
DEPARTMENT OF ECONOMIC DEVELOPMENT  
633 THIRD AVENUE  
NEW YORK, NEW YORK 10017

In the Matter

-of-

the Application of

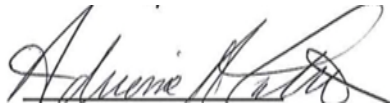
Anderson's Tree Service, Inc.

For certification as a Woman-owned  
Business Enterprise pursuant to Executive Law Article 15-A.

NYS DED File ID NO.: 65384

**RECOMMENDED ORDER ON DEFAULT**

-by-



**Adrienne R. Lotson**  
**Administrative Law Judge**  
**October 2, 2023**

**STATE OF NEW YORK**  
**DEPARTMENT OF ECONOMIC DEVELOPMENT**

-----X

In the Matter of the Appeal of:

ANDERSON’S TREE SERVICE, INC  
Appellant,

- against –

NEW YORK STATE DEPARTMENT OF  
ECONOMIC DEVELOPMENT,  
Respondent.

**RECOMMENDED  
ORDER  
ON  
DEFAULT**

FILE ID: 65384

To review a determination denying an application for certification as a Woman-owned Business Enterprise pursuant to Executive Law Article 15-A.

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X

**APPEARANCES**

Adrienne R. Lotson, Administrative Law Judge, New York State Department of Economic Development, and Laurel Wedinger-Gyimesi, Esq., for Respondent.

**WHEREAS:**

1. The above proceeding was commenced by the filing of an appeal, pursuant to New York Executive Law Article 15-A and Title 5 of the Official Compilation of Codes, Rules and Regulations of the State of New York Parts 140-144, by Anderson’s Tree Service, Inc, to challenge the determination of the Division of Minority and Women’s Business Development (“Division”) that the applicant does not meet the eligibility requirements for certification as a Woman-owned Business Enterprise; and
2. The application for certification was received on August 14, 2019. The application was denied by the Division by a letter dated March 10, 2023. The Appellant thereafter appealed the denial by a letter dated April 13, 2023; and
3. A Notice to Proceed via Written Appeal was emailed to the Appellant on April 18, 2023. The letter advised Appellant that their written appeal must be submitted no later than 60 days following the receipt of the Denial Determination; and
4. To date, Appellant has not responded to the Notice to Proceed via Written Appeal; and

5. Upon notice to the parties sent via electronic mail and regular mail, dated August 28, 2023, a pre-hearing conference was scheduled for September 28, 2023. The notice advised the Appellant that they would be considered in default if they did not appear for the pre-hearing conference and failed to request a new date on or before the date of the pre-hearing conference; and
6. The video conference invitation was sent via electronic mail on August 29, 2023, and was not accepted by the Appellant; and
7. Appellant, upon receipt of the video conference invitation, responded on August 29, 2023 via email “please cancel;” and
8. Appellant did not respond to the Administrative Law Judge’s inquiry on August 29, 2023 as to whether she was seeking an alternative date for the video conference; and
9. Appellant failed to appear at the pre-hearing conference, and did not further contact either counsel for the Division or the Administrative Hearings Unit; and
10. On administrative appeal, the Appellant bears the burden of proving that the Division’s denial of Appellant’s Women’s Business Enterprise certification is not supported by substantial evidence (5 NYCRR §145.2(b)); and
11. At the September 28, 2023, pre-hearing conference, the Division made a motion to dismiss the review of the application, based on the Appellant’s failure to appear.

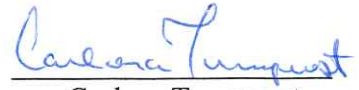
### **RECOMMENDATION**

Based upon the Appellant’s failure to appear at the pre-hearing conference, the Appellant should be deemed in default, the motion of the Division to dismiss the review of the application be granted and the application for review dismissed in accordance with State Administrative Procedure Act §301.5.

**PROOF OF SERVICE**

I hereby certify that on October 2, 2023, I caused to be served the foregoing document, the *New York State Department of Economic Development's Recommended Order on Default of the Appeal of Anderson's Tree Service, Inc.* via Certified Mail with Return Receipt requested to the following:

Ms. Ginetta Anderson  
Anderson's Tree Service, Inc.  
2190 Sunrise Highway  
Islip, NY 11706

  
Carlora Turnquest