



New York State
Department of Economic Development
Division of Minority and Women's
Business Development

In the matter of the appeal of

C & B Plumbing and Heating, Inc.

FINAL ORDER 19-28

From a denial of certification as a Women-owned Business Enterprise pursuant to Executive Law Article 15-A.

This order arises from an administrative appeal brought on behalf of C & B Plumbing and Heating, Inc. ("C&B" or "Appellant") pursuant to section 144.2 of title 5 of the New York Codes, Rules and Regulations. Appellant seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated December 22, 2017, to deny C&B certification as a Woman-owned Business Enterprise ("WBE").

Appellant initiated this appeal and requested a hearing on or about January 11, 2018. A hearing was subsequently scheduled for June 25, 2019. Edward Fogarty, Jr. Esq. represented the Appellant and Ms. Cynthia Courtien testified on behalf of C&B. Simon Wynn, Esq. represented the Division and Raymond Emanuel, Director of Certification testified on behalf of the Division. The parties also submitted post-hearing briefs by August 27, 2019, at which point the record closed.

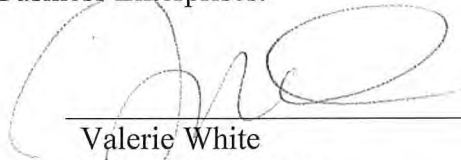
The issues on appeal were whether Appellant sufficiently demonstrated that (1) the contributions of the woman owner relied upon for certification were equal to her equity interest in the business as required by 5 NYCRR §144.2(a)(1); (2) the woman owner relied upon for certification makes decisions pertaining to the operation of the business as required by 5 NYCRR §144.2(b)(1); (3) the woman owner relied upon for certification has adequate managerial experience or technical competence to operate the business as required by 5 NYCRR §144.2(b)(1)(i); and (4) the woman owner relied upon for certification has the working knowledge and ability needed to operate the business as required by 5 NYCRR §144.2(b)(1)(ii).

On October 15, 2019, the Division received a Recommended Order from Administrative Law Judge Goldberger that recommended modification of the Division's denial of the application to certify C & B as a WBE on the grounds set forth in the Division's December 22, 2017 denial letter.

After considering the appeal record, I accept the recommendation of the Administrative Law Judge with respect to 5 NYCRR §§ 144.2(a)(1), 144.2(b)(1), §144.2(b)(1)(i), and 144.2(b)(1)(ii), as it pertains to the facts of this case. Incorporation by reference is hereby made with respect to the findings and conclusions of the Recommended Order.

It is hereby **ORDERED** that the decision to deny certification, dated December 22, 2017, is affirmed. Accordingly, C & B Plumbing and Heating, Inc. will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

December 9, 2019



Valerie White
Executive Director
Division of Minority and Women's Business
Development