



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

In the matter of the appeal of

Capital Demolition, LLC.

FINAL ORDER 18-28

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 Capital Demolition, LLC ("Capital Demolition") 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 October 11, 2016, to deny Capital Demolition certification as a Women-owned Business Enterprise ("WBE").

William S. Nolan, Esq. represented the Appellant and initiated this written appeal on July 27, 2017, and included an affidavit and supporting exhibits. The Division responded in writing to that appeal on April 9, 2018. The appeal was then assigned to Administrative Law Judge P. Nicholas Garlick.

The issues on appeal were whether Capital Demolition demonstrated that Sherry Brown, made contributions to the company, proportionate to her equity interests as a fifty-five percent owner in the business enterprise, in accordance with 5 NYCRR § 144.2(a)(1); whether she as the woman owner, demonstrated that she makes decisions pertaining the operation of the enterprise, as required by 5 NYCRR § 144.2(b)(1); whether she had adequate managerial experience or technical competence to operate the business enterprise as required by 5 NYCRR § 144.2(b)(1)(i); and whether she demonstrated control of negotiations through the production of signed contracts, as required by 5 NYCRR § 144.2(b)(3).¹

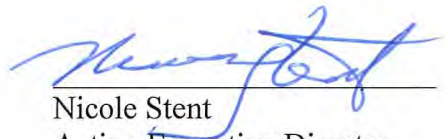
¹ On appeal, the Division withdrew this ground for denial pertaining to control of negotiations under section 144.2(b)(3) of Title 5 of the New York Code of Rules and Regulations. As such, Judge Garlick modified the basis of denial by removing this claim, under section 144.2(b)(3) only, as a basis for denial of certification. All other grounds for denial were affirmed and based on substantial evidence.

On June 6, 2018, the Division received a Recommended Order from Administrative Law Judge Garlick that recommended affirmation of the Division's denial of the application to certify Capital Demolition as a WBE on the grounds set forth in the Division's October 11, 2016 denial letter.²

After considering the appeal record, I accept the recommendation of the Administrative Law Judge 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 October 11, 2016, is affirmed. Accordingly, Capital Demolition will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

July 10, 2018



Nicole Stent
Acting Executive Director
Division of Minority and Women's
Business Development

² *Id.*