



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

In the matter of the appeal of

E GARTLAND & ASSOCIATES, LLC

FINAL ORDER 23-09

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

This order arises from an administrative appeal brought on behalf of E Gartland & Associates, LLC (“EGA” or “Appellant”) pursuant to section 144.2 of Title 5 of the New York Codes, Rules and Regulations.¹ Appellant seeks reversal of the decision of the Division of Minority and Women’s Business Development (the “Division”), dated February 28, 2020, to deny EGA’s October 2, 2021, certification application as a Woman-owned Business Enterprise (“WBE”).

Appellant initiated its appeal by sending a notice of appeal form requesting to appeal the denial determination via written submission, and sent its written submission dated March 8, 2022, to the Division. On October 4, 2022, the Division sent a notice to proceed by written appeal to the Appellant. The Division responded to the written appeal submission with its Memorandum of Law dated May 15, 2023, and an Affidavit of Raymond Emanuel, Director of Certification, for the Division, with attached Exhibits. Administrative Law Judge (“ALJ”) David A. Murad presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) has made capital contributions in the form of money, property, equipment or expertise in proportion to her equity interest, as required by 5 NYCRR § 144.2(a)(1); (2) shares in the risks and profits of the business enterprise in proportion to their equity

¹ The Division’s February 28, 2020, denial determination pre-dates the December 2, 2020, amendments made to 5 NYCRR Parts 140 et al. Accordingly, the eligibility criteria set forth under the former regulations are referenced throughout this final order.

interest therein, as required by 5 NYCRR § 144.2(c)(2); (3) possesses adequate, industry-specific competence to make critical business decisions without relying upon other persons, as required by 5 NYCRR § 144.2(c)(1); and (4) makes decisions pertaining to the operation of the business enterprise, as required by 5 NYCRR §144.2(b)(1).

On September 7, 2023, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division's denial of the application to certify E Gartland & Associates, LLC, as a WBE on the grounds set forth in the Division's February 28, 2020, denial letter.

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 February 28, 2020, is affirmed. Accordingly, E Gartland & Associates, LLC will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

September 22, 2023



Jason M. Clark
Executive Vice President and Executive Director
Division of Minority and Women's Business Development