



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

In the matter of the appeal of

Elevator Maintenance of Buffalo, Inc.

FINAL ORDER 16-60

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 Elevator Maintenance of Buffalo, Inc. ("Elevator Maintenance") pursuant to section 144.4 of title 5 of the New York Codes, Rules and Regulations. Appellant, Ms. Mary Jo Cattarin, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated May 03, 2016, to deny Elevator Maintenance certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge Lisa A. Wilkinson. Mr. James Bennett, Esq. and Mr. Peter Cantone, Esq., counsel to Elevator Maintenance, submitted a written appeal on behalf of Elevator Maintenance on July 15, 2016. The Division, represented by Mr. Phillip Harmonick, Esq., submitted a response on November 02, 2016. The respective submissions of the parties are contained in the appeal record.

The issues on appeal were whether women: shared in the risks and profits of Elevator Maintenance in proportion to their ownership interests therein; contributed money, property, equipment, or expertise to Elevator Maintenance in proportion to their ownership interests therein; possessed the requisite technical expertise or managerial experience to operate the business enterprise; and were permitted by the corporate bylaws of Elevator Maintenance to make decisions without restrictions.

On November 30, 2016, the Division received from Administrative Law Judge Wilkinson a Recommended Order that affirmed the Division's determination to deny the application by Appellant to certify Elevator Maintenance as a WBE. The Recommended Order recommended

that that the denial should be affirmed on each of the grounds identified in the Division's May 03, 2016 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 May 03, 2016, is affirmed. Accordingly, Elevator Maintenance will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

December 06, 2016



Lourdes Zapata
Executive Director
Division of Minority and Women's
Business Development