



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

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In the matter of the appeal of

**Evay Development Associates, LLC**

FINAL ORDER 18-29

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

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This order arises from an administrative appeal brought on behalf of Evay Development Associates, LLC ("Evay Development") 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 April 4, 2017, to deny Evay Development certification as a Women-owned Business Enterprise ("WBE") and as a Minority-owned Business Enterprise ("MBE").

The Appellant initiated this appeal on April 27, 2017. On March 20, 2018, the Division notified Appellant of a hearing date set for April 10, 2018, for this matter to be heard. The hearing occurred as scheduled. Appellant appeared *pro se*, before Administrative Law Judge P. Nicholas Garlick, and Phillip Harmonick represented the Division. The hearing concluded on that date and the record closed May 7, 2018, upon receipt of the recording of the hearing.

The issues on appeal were whether Evay Development demonstrated that the woman and minority owner, Etta Fearon, made capital contributions to the company, proportionate to her equity interests as a fifty-one percent owner in the business enterprise, in accordance with 5 NYCRR § 144.2(a)(1); and whether she as the woman and minority owner, demonstrated that she makes decisions pertaining the operation of the business enterprise, as required by 5 NYCRR § 144.2(b)(1).

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

Evay Development as a MBE and a WBE on the grounds set forth in the Division's April 4, 2017 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 April 4, 2017, is affirmed. Accordingly, Evay Development 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