



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

**Friend Commercial Contracting Corp.**

FINAL ORDER 16-15

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 Friend Commercial Contracting Corp. ("FCCC") pursuant to 5 NYCRR Section 144.4. Appellant, Ms. Beth Friend, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated August 27, 2015, to deny FCCC certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge P. Nicholas Garlick. Appellant submitted a written appeal in this matter dated November 16, 2015. The Division, represented by Phillip Harmonick, Esq., submitted a response in this matter on February 03, 2016. Mr. Joel Howard, Esq., counsel to the Appellant, submitted a reply to the Department's response dated February 19, 2016, to which Mr. Harmonick submitted a surresponse on March 02, 2016. The respective submissions of the parties are contained in the appeal record.

On May 11, 2016, the Division received from Administrative Law Judge Garlick a Recommended Order that affirmed, on modified grounds, the Division's determination to deny the application by Appellant to certify FCCC as a WBE.

The issues on appeal were whether the Appellant: demonstrated a capital contribution to FCCC in proportion to her ownership interest therein; shared in the risks and profits of FCCC in proportion to her ownership interest therein; possessed the experience or technical competence, working knowledge or ability needed to operate FCCC; and made decisions pertaining to the operation of FCCC. Administrative Law Judge Garlick recommended that the Division's determination to deny FCCC certification as a WBE be upheld on each of the grounds identified

by the Division, except for the Division's determination with respect to the allocation of the risks and profits of FCCC.

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; namely, that FCCC does not meet the requirements for certification as set forth in Article 15-A of the Executive Law and the rules and regulations promulgated thereunder.

It is hereby **ORDERED** that the decision to deny certification, dated August 27, 2015, is affirmed. Accordingly, FCCC will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

May 16, 2016



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