



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

In the matter of the appeal of

Jaclyn Building Services, Inc.

FINAL ORDER 16-21

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 Jaclyn Building Services, Inc. ("JBS") pursuant to 5 NYCRR Section 144.4. Appellant, Ms. Jacqueline Padula, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated September 17, 2015, to deny JBS certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge P. Nicholas Garlick. Appellant submitted a written appeal on February 29, 2016. The Division, represented by Mr. Phillip Harmonick, Esq., submitted a response on May 04, 2016. The submissions of the parties are contained in the appeal record.

On May 23, 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 JBS as a WBE.

The issues on appeal were whether Appellant: shared in the risks and profits of the business enterprise in proportion to her ownership interest therein; possessed the requisite technical expertise or managerial experience to operate the business enterprise; made decisions pertaining to the operation of the business enterprise; and controlled business negotiations on behalf of JBS. Administrative Law Judge Garlick recommended that the Division's determination to deny JBS certification as a WBE be upheld on each of the grounds identified by the Division, with the exception of the denial ground pertaining to the allocation of the risks and profits of the business enterprise.

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 JBS 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 September 17, 2015, is affirmed. Accordingly, JBS will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

May 25, 2016



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