



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

In the matter of the appeal of

SH5 Construction Corp.

FINAL ORDER 17-57

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 SH5 Construction Corp. ("SH5") pursuant to section 144.4 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 March 11, 2016, to deny SH5 certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge P. Nicholas Garlick. Ms. Yasmeen Latif submitted a written appeal on behalf of Appellant dated May 10, 2016. Mr. Justin McLaughlin-Williams submitted a response to the appeal on behalf of the Division. Mr. Martin J. Kernan, Esq. submitted a reply to the Division's response on August 30, 2017. The respective submissions of the parties are contained in the appeal record.

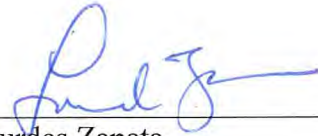
The issues on appeal were whether the woman owner of SH5: contributed money, property, equipment, or expertise proportionate to her equity interest in SH5; and was permitted by the corporate bylaws of SH5 to make decisions without restrictions.

On September 28, 2017, the Division received from Administrative Law Judge Garlick a Recommended Order that recommended affirmation of the Division's denial of the application to certify SH5 as a WBE on the grounds set forth in the Division's March 11, 2016 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 March 11, 2016, is affirmed. Accordingly, SH5 will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises as a Women-owned Business Enterprise.

September 28, 2017



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