



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

In the matter of the appeal of

S.L. Test Boring, Inc.

FINAL ORDER 18-12

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 S.L. Test Boring, Inc. ("SLTB") 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 December 16, 2016, to deny SLTB certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge P. Nicholas Garlick. Ms. Loretta Luning submitted a written appeal on behalf of Appellant on January 09, 2017. Phillip Harmonick, Esq. submitted a response on behalf of the Division on November 09, 2017. Ms. Luning submitted a reply brief, including new evidentiary exhibits, on November 29, 2017. Mr. Harmonick submitted a surresponse to the reply on December 15, 2017. The respective submissions of the parties are contained in the appeal record.

The issue on appeal was whether SLTB was an independent business enterprise.

On February 08, 2018, the Division received from Administrative Law Judge Garlick a Recommended Order that recommended affirmation of the Division's denial of the application to certify SLTB as a WBE on the grounds set forth in the Division's December 16, 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 December 16, 2016, is affirmed. Accordingly, SLTB will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

February 26, 2018



Nicole Stent
Acting Executive Director
Division of Minority and Women's
Business Development