



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

In the matter of the appeal of

Whispering Pines Development Corp.

FINAL ORDER 19-11

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 Whispering Pines Development Corp. ("WPDC") 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 January 20, 2017, to deny WPDC certification as a Women-owned Business Enterprise ("WBE").

Appellant initiated this appeal on February 6, 2017. The Division acknowledged Appellant's request to appeal via written submission and set a submission due date for the written appeal to be filed on or before May 8, 2017. Appellant filed a timely appeal and attached nine exhibits thereto.

The Division submitted its written response on March 26, 2019, along with eight exhibits. Appellant's appeal and the Divisions response, along with all respective exhibits, were then assigned to Administrative Law Judge P. Nicholas Garlick on March 29, 2019.

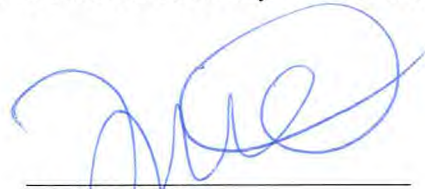
The issues on appeal were whether WPDC demonstrated that Kim Leonette, as the women owner relied upon for certification, made capital contributions in proportion to their collective majority equity interests in the business enterprise, as required by 5 NYCRR § 144.2(a)(1); and whether the applicant business sufficiently demonstrated that Ms. Leonette makes decisions without restrictions, as required by 5 NYCRR § 144.2(b)(2).

On June 5, 2019, the Division received a Recommended Order from Administrative Law Judge Garlick that recommended affirmation of the Division's denial of the application to certify WPDC as a WBE on the grounds set forth in the Division's January 20, 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 January 20, 2017, is affirmed. Accordingly, WPDC will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

June 26, 2019



Valerie White
Executive Director
Division of Minority and Women's
Business Development