



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

In the matter of the appeal of

Tri-County Heating & A/C of Oneida, Inc.

FINAL ORDER 24-02

From a denial of certification as a Woman-owned Business Enterprise pursuant to Executive Law Article 15-A.

This order arises from an administrative appeal brought on behalf of Tri-County Heating & A/C of Oneida, Inc. ("Tri-County" or "Appellant") 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 April 20, 2023, to deny Tri-County's November 1, 2022, dated application for certification as a Woman-owned Business Enterprise ("WBE").

Appellant timely filed a Request to Appeal on May 5, 2023. A notice to proceed via written appeal was sent to Tri-County on May 15, 2023. Appellant filed its written appeal by letter dated June 20, 2023. In response, the Division filed an Affidavit of Robyn Clarke, Associate Certification Director, dated October 24, 2023, and a brief of Dennie Byam Esq., counsel for the Division, dated October 24, 2023. Administrative Law Judge ("ALJ") David A. Murad presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) possesses adequate, industry-specific competence to make critical business decisions without relying upon other persons, as required under 5 NYCRR §144.2(c)(1); (2) makes operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise, as required under 5 NYCRR §144.2(c)(2); and (3) negotiates business contracts and represent themselves to clients as the principals of the business enterprise, as demonstrated by fully executed business agreements, as required under 5 NYCRR §144.2(d)(2).

On January 26, 2024, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division's denial of the application to certify of Tri-County Heating & A/C of Oneida, Inc. as a WBE on the grounds set forth in the Division's April 21, 2023, 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 April 20, 2023, is affirmed. Accordingly, Tri-County Heating & A/C of Oneida, Inc. will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

May 7, 2024



Jason M. Clark
Executive Vice President and
Executive Director
Division of Minority and Women's
Business Development