STATE OF NEW YORK INDUSTRIAL BOARD OF APPEALS

ANNE P. STEVASON Chairman

Mark S. Perla Gregory A. Monteleone Susan Sullivan-Bisceglia J. Christopher Meagher Members

STATE OF NEW YORK

WHEREAS:



Empire State Plaza
Agency Building 2, 20th Floor
Albany, New York 12223
Phone: (518) 474-4785 Fax: (518) 473-7533

Sandra M. Nathan Deputy Counsel

Devin A. Rice Associate Counsel

INDUSTRIAL BOARD OF APPEALS		
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In the Matter of the Application of:	:	
	:	
UNION OF DOMINICAN VISUAL ARTISTS, INC.,	:	
,	:	
	: DOCKET NO. CI 07-019	
	:	
For Approval of a Certificate of Incorporation	: RESOLUTION OF DECISIO	N
Pursuant to Section 404 of the New York State		
Not-for-Profit Corporation Law	•	
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By letter dated December 6, 2007, the Union of Dominican Visual Artists, Inc. (Applicant), through its attorney, filed an application with the New York State Industrial Board of Appeals (the Board) for approval of a Certificate of Incorporation for a proposed not-for-profit corporation with the purpose of advancing the general public's understanding of, interest in, and appreciation of artwork produced by local Washington Heights artists of predominately Dominican heritage.

Not-for-Profit Corporation Law § 404 (j) provides that:

Every certificate of incorporation which includes among its purposes the organization of wage-earners for their mutual betterment, protection and advancement; the regulation of hours of labor, working conditions, or wages; or the performance, rendition or sale of services as labor consultant, labor-management advisor, negotiator, arbitrator, or specialist; and every certificate of incorporation in which the name of the proposed corporation includes "union", "labor", "council" or "industrial organization", or any abbreviation or derivative thereof in a context that indicates or implies that the corporation is formed for any of the above

purposes, shall have endorsed thereon or annexed thereto the approval of the industrial board of appeals

The Applicant seeks approval of a Certificate of Incorporation with the corporate name containing the word "union" and is thus subject to Board approval pursuant to Not-for-Profit Corporation Law § 404 (j).

Labor Law § 104 governs the Board's review of corporate instruments that are submitted to it for approval in accordance with the requirements of other statutes, including Not-for-Profit Corporation Law § 404 (j). Section 104 states that the Board

shall make such inquiry as it may deem advisable . . . to determine whether or not the purposes of the proposed corporation are in all respects consistent with public policy and the labor law, and whether the corporate name is in all respects consistent with its purposes and activities or tends to be misleading.

Pursuant to Labor Law § 104, we find that although the purposes of the proposed corporation are consistent with public policy, the Application cannot be approved because the proposed corporate name, "Union of Dominican Visual Artists", may mislead the public to believe that it is an organization of visual artists formed for their mutual betterment, protection and advancement (see Matter of Tool Owners Union v Roberts, 190 Misc 577 [Sup Ct New York County1947] [misleading and confusing name is one of the grounds upon which Board may deny approval of an application before it]). Accordingly, the Application for approval of the proposed Certificate of Incorporation is denied.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

- 1. The Certificate of Incorporation is disapproved; and
- 2. A certified copy of this Resolution be annexed thereto.

WITNESS, the signatures of the Members of the Industrial Board of Appeals and the Seal of the Industrial Board of Appeals of the State of New York, at New York, New York, on the 23rd day of January, 2008.

Anne P. Stevason, Chairman

Mark S. Perla, Membe

Gregory A. Monteleone, Member

Susan Sullivan-Bisceglia, Member

V. Christopher Meagher, Member

Dated and signed in the Office of the Industrial Board of Appeals, at New York, New York, on January 23, 2008.

Filed in the Office of the Industrial Board of Appeals, at Albany, New York, on January 28, 2008.

DAR