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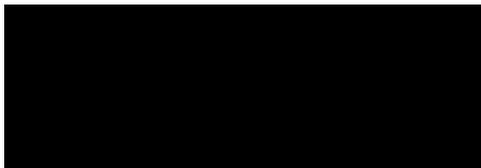
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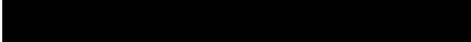
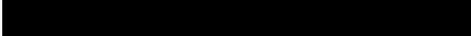


U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship
and Immigration
Services



FILE: LIN 03 026 52496 Office: NEBRASKA SERVICE CENTER Date: **MAR 09 2004**

IN RE: Petitioner: 
Beneficiary: 

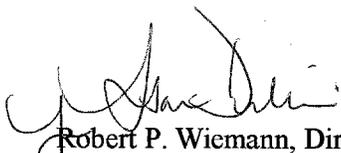
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is hotel that seeks to employ the beneficiary as a front office manager. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101 (a)(15)(H)(i)(b).

The director denied the petition because he found that the proffered position is not a specialty occupation. On appeal, counsel submits a brief.

Section 214(i)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184 (i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a front office manager. Evidence of the beneficiary's duties includes: the I-129 petition; the petitioner's October 25, 2002 letter in support of the petition; and the

petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail overseeing customer service activities, inspecting rooms and public areas, assisting in budget development, supervising hotel employees, motivating and developing staff, and communicating with the various hotel department heads and senior management. The petitioner indicated that a qualified candidate for the job would possess a bachelor's degree in business administration or hospitality management.

The director found that the proffered position was not a specialty occupation because the petitioner failed to establish any of the criteria found at 8 C.F.R. § 214.2(h)(4)(iii)(A). Citing to the Department of Labor's *Occupational Outlook Handbook (Handbook)*, 2002-2003 edition, the director noted that the minimum requirement for entry into the position was not a baccalaureate degree or its equivalent in a specific specialty.

On appeal, counsel states that the record establishes all four of the above-mentioned regulatory criteria. Counsel asserts that a requirement for a bachelor's degree in business or hospitality management is an industry norm and that the proffered position is so complex that it can only be performed by a person with such a degree. Counsel contends that the petitioner normally requires a degree in the specific specialty for its front office managers, pointing out that the record contains information showing that five individuals in similar positions within the petitioner's hotel group hold bachelor's degrees. Finally, counsel states that the record establishes the specialized and complex nature of the duties.

Upon review of the record, the petitioner has established at least one of the four criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, the proffered position is classified as a specialty occupation.

Regarding the criterion at 8 C.F.R. § 214.2 (h)(4)(iii)(A)(2), that a degree requirement is common to the industry in parallel positions among similar organizations, or a particular position is so complex or unique that it can be performed only by an individual with a degree, the petitioner submits three letters in support of its claim that a bachelor's degree in business or hospitality management is an industry standard for entry into the proffered position. Marc J. Gordon, president and CEO of the Illinois Hotel and Lodging Association (IHLA), and Siobhan O'Leary, Human Resources Director at the Carlyle Hotel, state that such a degree is generally required. Pam Duff, Human Resources Director at the Wyndham Hotel, which is similar in size and scope of operations to the petitioner, writes that the Wyndham Hotel requires its front office manager to hold a bachelor's degree in business administration or hospitality management. In addition, the list of job duties associated with the proffered position supports a finding that the job is complex and unique. The petitioner has, thus, established the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A)(2).

The evidence on the record also supports the criterion at 8 C.F.R. § 214.2(h)(iii)(A)(4), that the nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree. On appeal, the petitioner submits a letter from Dr. George R. Fletcher, which states that the proffered position is complex and specialized due to its level of management responsibility. This opinion is borne out by the record's detailed explanation of the proposed duties. Given the size of the petitioner's hotel, its clientele, and the scope and variety of responsibilities attributed to the front office manager's position, it does not appear unreasonable to require the incumbent to hold a bachelor's degree in business administration or hospitality management.

Upon review of the evidence on record, it is found that the petitioner has overcome the director's concerns and has established that the proffered position is a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(2)

and (4). The beneficiary holds the equivalent of a U.S. bachelor's degree in business administration. He is, therefore, qualified to perform the duties of the proffered position.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden. Accordingly, the appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained. The petition is approved.