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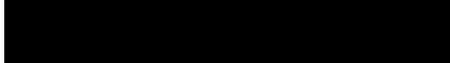
**U.S. Citizenship
and Immigration
Services**

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FILE: LIN 04 240 51240 Office: NEBRASKA SERVICE CENTER Date: **JUN 07 2006**

IN RE: Petitioner: 
Beneficiary: 

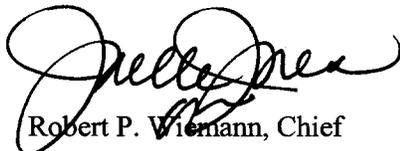
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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. Wienmann, Chief
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 involved in the sale of lighting and home furnishings, and seeks to employ the beneficiary as an interior designer. 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 stating that the proffered position does not qualify as a specialty occupation. On appeal, counsel submits a brief and additional information and states that the offered position qualifies as a specialty occupation.

The first issue to be discussed in this proceeding is whether the proffered position qualifies as a specialty occupation.

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), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

Section 214(i)(1) of 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.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

[A]n occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a 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 are 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) the 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) the Form I-290B with supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary’s services as an interior designer. Evidence of the beneficiary’s duties includes the Form I-129 petition with attachment and the petitioner’s response to the director’s request for evidence. According to this evidence the beneficiary would:

- Study blueprints and interior layouts to determine lighting fixtures and spacing that will provide optimum luminance;
- Provide customers with lighting designs both verbally and through the creation of computer aided lighting layouts, requiring the use of AutoCAD and “perspective” views;
- Answer questions regarding product performance specifying the appropriate type, number, and arrangement of fixtures to meet customer needs;
- Call on and work with builders, contractors and interior designers to secure residential/commercial specifications and increase brand awareness and product superiority;
- Work closely with people to aid in designing and building integrated layouts using the petitioner’s products;
- Be a key participant in the identification and selection of new products;
- Manage current customers and contractors to provide solutions and seek additional sales opportunities; and
- Use lead sources to identify upcoming business opportunities.

The petitioner requires a minimum of a bachelor's degree in business with interior design/architectural design or a related field for entry into the offered position.

The AAO routinely consults the U.S. Department of Labor's *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the proffered position are essentially those performed by interior designers. The *Handbook* states that:

Interior designers draw upon many disciplines to enhance the function, safety, and aesthetics of interior spaces. Interior designers are concerned with how different colors, textures, furniture, lighting, and space work together to meet the needs of a building's occupants. Designers are involved in planning the interior spaces of almost all buildings—offices, airport terminals, theaters, shopping malls, restaurants, hotels, schools, hospitals, and private residences. Designers help to improve these spaces in order to boost office productivity, increase sales, attract a more affluent clientele, provide a more relaxing hospital stay, or increase the building's market value.

Upon review of the record, the petitioner has established that a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the offered position. 8 C.F.R. § 214.2(h)(4)(iii)(A)(I). The 2006 – 2007 edition of the *Handbook* notes that postsecondary education – especially a bachelor's degree – is recommended for entry-level positions in interior design. Following formal training, graduates usually enter a 1-year to 3-year apprenticeship to gain experience before taking a national licensing exam or joining a professional association. Training programs are available from professional design schools or from colleges and universities and usually take two to four years to complete. Graduates of two and three year programs are awarded associate's degrees in interior design and normally qualify as assistants to interior designers upon graduation. Graduates with bachelor's degrees usually qualify for entry into a formal design apprenticeship program. The beneficiary in this instance would work as an interior designer, not an assistant to an interior designer. Thus, a bachelor's degree is normally the minimum requirement for entry into the position and the position qualifies as a specialty occupation.

The final issue to be determined is whether the beneficiary is qualified to perform the duties of a specialty occupation. The director did not determine this issue as the petition was denied on another ground. The beneficiary's foreign education has been determined to be equivalent to a Bachelor of Arts degree with a dual major in economics and interior design from an accredited college or university in the United States. The degree is closely related to the duties of the proffered position, and qualifies the beneficiary to perform the duties of the position. 8 C.F.R. § 214.2(h)(4)(iii)(C)(I). The *Handbook* notes that according to the American Society of Interior Designers, 24 states, the District of Columbia, and Puerto Rico register or license interior designers. The beneficiary would work for the petitioner in the State of Wisconsin. Wisconsin does not require licensing of interior designers unless they use the title of "Wisconsin registered interior designer." The petitioner states that the beneficiary will not be held out as a registered interior designer. Licensing is, therefore, not required and the beneficiary is qualified to perform the duties of the offered specialty occupation.

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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 and the appeal shall accordingly be sustained.

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