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U.S. Citizenship
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MAR 21 2007

FILE: WAC 05 235 50115 Office: CALIFORNIA SERVICE CENTER Date:

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, 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 an architectural design and engineering firm and seeks to employ the beneficiary as an architectural coordinator. 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 beneficiary was not qualified to perform the duties of the offered specialty occupation because the beneficiary was not a licensed architect. On appeal, counsel submits a brief and additional information stating that the beneficiary is qualified to perform the duties of the proffered position.

The director stated that the only issue to be determined was whether the beneficiary possessed appropriate licensure to work in the proffered position. The duties of the proffered position are those normally performed by architectural school graduates who are fulfilling the requirements for licensure as an architect (internships/practical training and testing requirements). The AAO agrees with the director's finding that was implicit in his decision, that the proffered position qualifies as a specialty occupation. A degree in architecture is normally the minimum requirement for entry into the offered position. 8 C.F.R. § 214.2(h)(4)(iii)(A)(I).

The issue to be discussed in this proceeding is whether the beneficiary is qualified to perform the duties of a specialty occupation.

As stated above, the duties of the proffered position are essentially those performed by architectural school graduates who are fulfilling the requirements for licensure as an architect (internships/practical training and testing requirements). These positions, and the proffered position specifically, also require a degree in architecture as the positions include duties normally performed by architects. The Department of Labor's *Occupational Outlook Handbook (Handbook)* notes that all states and the District of Columbia require licensing or registration for individuals to refer to themselves as architects and to contract to provide architectural services. Between graduation and licensing, however, architectural school graduates may perform duties normally performed by architects while working under the supervision of a licensed architect. The petitioner is an architectural services firm and reports to have 500 employees and a gross annual income exceeding \$100,000,000. On appeal, the petitioner stated that the beneficiary would work under the direct supervision of a licensed architect (██████████) and submitted a copy of the architect's California license. Furthermore, the beneficiary possesses a master's degree in architecture from the University of Arizona. The beneficiary 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 decision of the director will be withdrawn and the appeal will be sustained.

ORDER: The decision of the director is withdrawn and the appeal is sustained. The petition is approved.