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U.S. Department of Justice

Immigration and Naturalization Service

PUBLIC COPY

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



25 OCT 2002

File: SRC 02 141 53895 Office: Texas Service Center Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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

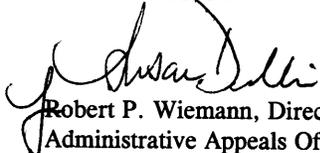
IN BEHALF OF PETITIONER: Self-represented

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

INSTRUCTIONS:

This is the decision 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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner is engaged in residential and commercial landscape sales and service. It desires to extend its authorization to employ the beneficiary as a laborer for one year. The director determined that the petitioner had not established that the position is seasonal and is temporary. The director also determined that the petition was submitted without a labor certification or a notice detailing the reasons why such certification could not be made.

The beneficiary states that the reason for the appeal is as follows:

Attachments enclosed are approval of U.S. Department of Labor decision dated August 30, 2001 - April 29, 2002. This is the same company that is petitioning for the same amount of laborers for an additional six months.

The regulation at 8 C.F.R. 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. 103.3(a)(2) states:

(v) *Improperly filed appeal-*(A) *Appeal filed by person or entity not entitled to file it-*(1) *Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner or an affected party, but rather by the beneficiary. Therefore, the appeal must be rejected.

ORDER: The appeal is rejected.