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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: WAC 02 286 51981 Office: CALIFORNIA SERVICE CENTER Date: NOV 01 2004

IN RE: Petitioner: [redacted]
Beneficiary

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a Buddhist temple. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a priest. The director determined that the petitioner had not established that it possesses a qualifying tax exemption.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

> (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;
>
> (ii) seeks to enter the United States--
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> > (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
> >
> > (II) before October 1, 2008, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or
> >
> > (III) before October 1, 2008, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and
>
> (iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The sole issue raised by the director concerns the petitioner's tax-exempt status. 8 C.F.R. § 204.5(m)(3)(i) requires the petitioner to submit evidence that the organization qualifies as a non-profit organization in the form of either:

> (A) Documentation showing that it is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations (in appropriate cases, evidence of the organization's assets and methods of operation and the organization's papers of incorporation under applicable state law may be requested); or
>
> (B) Such documentation as is required by the Internal Revenue Service to establish eligibility for exemption under section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

The petitioner has submitted a letter from the Internal Revenue Service (IRS), dated October 31, 1989, recognizing the tax-exempt status of an entity with the same name as the petitioner, but with a different address (1056 Cherry Avenue, Long Beach, California).

Because the address on the IRS' 1989 letter does not match the petitioner's present address, the director instructed the petitioner to "provide evidence that your religious organization qualifies as a nonprofit religious organization." The director also requested other information. The petitioner responded to this notice, but did not address the request for information about the petitioner's tax-exempt status.

The director denied the petition, because the petitioner had established no conclusive link between itself and the tax-exempt entity at [redacted]. On appeal, the petitioner submits additional documents relating to the [redacted] address, and the petitioner states that the temple used to be located at the [redacted] address, but "relocated . . . to accommodate the growing number of people who are members of our congregation."

The petitioner's failure to submit further information about its tax-exempt status in response to the director's notice is mitigated by the unclear wording of the director's request. The director stated:

> **Organization Location**: Your religious organizations although they have the same name do not have the same address. [The petitioner] is located at 2625 E. 3rd Street, Long Beach, CA 90814. However, your proof of tax exempt status shows a location of [redacted] You have only shown that the address [redacted] exempt from Federal income tax. Therefore, provide evidence that your religious organization qualifies as a nonprofit religious organization.

The director's early reference to "[y]our religious organizations" could be construed as recognition of a connection between the entity on Cherry Avenue and the petitioner's current location on 3rd Street.

We note that the director, in an apparent effort to learn more about the petitioner's corporate status, consulted the Web Site of the California Business Portal (http://www.ss.ca.gov/business/business.htm). This same site shows that only one corporation under the petitioner's name is registered, indicating that there are not two identically-named temples in Long Beach. Other Internet resources provide further corroboration for the petitioner's plausible assertion that the temple simply moved to a new address. The petitioner's telephone number i[redacted] Area [redacted] was instituted in 1997; previously, Long Beach fell within area code 310. Thus, if the two temples were one and the same, and (as is common) kept its telephone number when it relocated within the city, we would expect that outdated references to the temple's [redacted] address would also show the telephone number as [redacted] As predicted, older web sites,[1] which refer to the temple's Cherry Avenue address, show the telephone number a[redacted] The fact that the two temples have the same telephone number (taking into account the area code change) is persuasive circumstantial evidence to support the petitioner's account of events. Because such information is so easily obtained, and because the director clearly was willing to consult the Internet to research the petitioner's status, it would be negligent not to take this information into account once it had come to our attention. The preponderance of available evidence supports the petitioner's version of events. There is nothing in the record to suggest that the IRS letter applies to an entirely separate entity, or that the petitioner forfeited its exemption simply by relocating to a new address.

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 met that burden. Accordingly, the appeal will be sustained.

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

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[1] For example, http://www.marinersguide.com/regions/california/longbeach/churches.html.