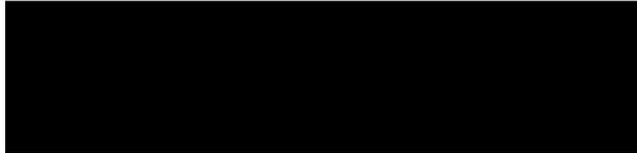




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invasion of personal privacy

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: JAN 24 2011

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)

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.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center. The director subsequently dismissed a motion to reopen and reconsider. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved, although the petition is moot due to the passage of time.

The petitioner is engaged in landscaping and seeks to employ the beneficiaries as landscape laborers pursuant to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(H)(ii)(b) for the period from April 1, 2010 until December 15, 2010.

The director denied the petition on March 4, 2010, concluding that the petitioner had not established a temporary need for the beneficiaries' services. The director subsequently denied the motion to reopen and reconsider on May 11, 2010.

On appeal, the petitioner has overcome the concerns addressed in the director's decision. The petitioner submitted evidence to establish its recurrent seasonal need for landscape laborers from April until mid-December through staffing charts for the position of landscape laborer and other corroborating evidence.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has met that burden.

**ORDER:** The appeal is sustained, although the matter is moot due to the passage of time.