



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 25673014

Date: MAR. 22, 2023

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (National Interest Waiver)

The Petitioner, an assistant professor of finance, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will sustain the appeal.

## I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, they must then establish that they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither the statute nor the pertinent regulations define the term “national interest,” *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>1</sup>, grant a national interest waiver if the petitioner demonstrates that:

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<sup>1</sup> *See also Poursina v. USCIS*, No. 17-16579, 2019 WL 4051593 (Aug. 28, 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well positioned to advance the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

## II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

### A. Substantial Merit and National Importance of the Proposed Endeavor

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake. The endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. As the Director has found substantial merit in the Petitioner's proposed endeavor, we will only focus our analysis on national importance.

The Petitioner's proposed endeavor is research in the field of real estate. In the initial petition, the Petitioner submitted "Research Plan Statement" outlining his past, current, and future research projects. The Director issued a request for evidence (RFE), questioning specificity of the proposed endeavor and eventually denied the petition. The Director found that the Petitioner "failed to provide specific insight as to what he intends to do as an Assistant Professor." The Director then determined that some of the Petitioner's research projects have substantial merit but not national importance because the Petitioner did not show that his endeavor will have "substantial economic effects to at least a region of the United States" or "impact the field more broadly as opposed to impacting individual companies."

On appeal, the Petitioner contends that the Director examined "only a part of [his] qualifications and achievements into consideration in making the denial decision" and that the totality of evidence should have established that his proposed endeavor is of national importance. Upon de novo review, we find that the record demonstrates national importance of the Petitioner's research endeavor in the field of real estate.

The Director's denial focused on selected research topics rather than all the research that the Petitioner proposed to undertake. The Director specifically mentioned the Petitioner's past research, such as development of an empirical strategy to measure real estate firms' operational efficiency and study on employee productivity in real estate operations, as only impacting individual real estate companies that utilize these methodologies.<sup>2</sup> However, in "Research Plan Statement," the Petitioner also included his current and future research endeavors that impact the real estate field more broadly than just

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<sup>2</sup> The Petitioner submitted recommendation letters demonstrating that his past research received recognition from independent researchers, but such evidence generally relates to the second prong of the *Dhanasar* framework, whether he is well-positioned to advance his proposed endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 890.

individual real estate companies, such as investigation of environmental, social, and governance (ESG) impact on real estate firms, study on household income growth and local economic conditions affecting property value and performance, identification of environmental issues and climate changes in the area of real estate, and understanding fundamental shifts in real estate markets caused by the COVID-19 pandemic.

*Dhanasar* states that “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.” *Id.* Similarly, we find that the Petitioner’s research undertaking has national importance as his research results are disseminated to others in the field through academic journals and conferences, contributing to advancements and developments of real estate trends and market solutions. Since the Director already determined that there is substantial merit, the Petitioner’s endeavor meets the first prong of the *Dhanasar* framework.

#### B. Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the foreign national. To determine whether he or she is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual’s education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Dhanasar*, 26 I&N Dec. at 890.

At the time of filing in June 2021, the Petitioner was an assistant professor of finance at the [redacted] University’s College of Business. He obtained a Ph.D. in finance in 2019 and a master of science in real estate in 2014. He also earned a master’s degree in business administration in 2011. The Petitioner’s updated resume shows that he is an assistant professor of the Department of Economics and Finance at the University [redacted] at [redacted]. The record includes his curriculum vitae as well as verified diplomas and academic transcripts supporting the Petitioner’s strong academic background in his field. In *Dhanasar*, the record established that the petitioner held multiple graduate degrees including “two master of science degrees, in mechanical engineering and applied physics, as well as a Ph.D. in engineering.” *Id.* at 891. We find that the Petitioner has the education, skills, and knowledge to carry out his proposed endeavor in the field. Still, we look at other factors in determining whether the Petitioner is well positioned to advance his proposed endeavor as education is merely one factor among many that may contribute to such a finding.

The Petitioner has published a significant number of research papers in prestigious real estate journals, such as the Journal of Real Estate Finance and Economics, Journal of Real Estate Research, and Real Estate Economics. According to the American Real Estate Society (ARES), these journals have exceptional ratings as top three journals of the real estate research. The Petitioner’s research publications in these journals confirm that he has co-authored and solo-authored important research papers covering a variety of novel topics in the field of real estate, as indicated in his “Research Plan Statement.” The record further shows that his research papers have received a notable number of citations, demonstrating that the Petitioner’s research has significantly influenced his field. The substantial number of citations come from other independent real estate researchers in the United States, as well as international scholars in Australia, Canada, United Kingdom, Hong Kong, and China.

The Petitioner submitted bibliometric data showing him in top 10% in the field of “Economics & Business.” The Petitioner’s record of success with his past research bolsters the argument that the Petitioner’s future research plans will produce similar influence and significant impact on the real estate research and industry.

The Petitioner also submitted supporting letters from independent researchers who are scholars and professors of finance and real estate of various institutions across the United States, such as [redacted] University [redacted] [redacted] University, and the College [redacted]. These letters attest to the importance of his research findings and how they have adopted his research results to further their research or the field of real estate. For example, [redacted] a professor from the [redacted] University states that the Petitioner’s discoveries on the important implications of bank technology adoptions have had a significant impact in the real world and his research projects are “of major interest academics and practitioners across our nation.” [redacted] a [redacted] professor, praises the Petitioner as “the first to report the parameters of a real estate production function using empirical specifications correcting . . . to assess the contribution of labor to firm productivity” and declares that the Petitioner’s work “has shifted the landscape of real estate research and is paving a new series of independent studies conducted by researchers all over the globe.” [redacted] a professor from the University [redacted] confirms that his own research has “benefited from [the Petitioner’s] contributions” on a novel firm-level economic growth measure based on asset locations and investigation of how local economic growth impacts firm growth.

In addition, the Petitioner is the [redacted] ranked researcher according to the Real Estate Academic Leadership (REAL) author ranking for 2017-2021, and several government agencies, i.e., the Federal Deposit Insurance Corporation (FDIC), the National Institutes of Health (NIH), and the Federal Reserve System, make references to his research in their policy related articles. During 2018-2021, the Petitioner has presented his research at various national conferences, such as the American Real Estate Society annual meetings, the Financial Management Association International annual meetings, and the Community Banking in the 21st Century Research and Policy Conference annually co-sponsored by the Federal Reserve System and FDIC. The Petitioner demonstrated his research’s influence not only in academic circles but also the private sector and government regulators in the United States. Accordingly, we conclude that the Petitioner is well positioned to advance his proposed endeavor and satisfies the second prong of the *Dhanasar* framework.

### C. Balancing Factors to Determine Waiver’s Benefit to the United States

The third prong requires the petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the foreign national’s qualifications or the proposed endeavor, it would be impractical either for the foreign national to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the foreign national’s contributions; and whether the national interest in the foreign national’s contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, indicate that on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Id.* at 890-91.

The Petitioner possesses considerable expertise in the field of real estate and his research has provided widespread benefits to other researchers in the field. His past record of success proves that his future research will similarly impact the real estate academia and industry. Based on the Petitioner's track record of successful research and the significance of his proposed work, we find that he offers contributions of such value that, on balance, they would benefit the United States even assuming that other qualified U.S. workers are available.

### III. CONCLUSION

The Petitioner has met the requisite three prongs set forth in the *Dhamasar* analytical framework. We find that he has established he is eligible for and otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is sustained.