

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

157

PUBLIC COPY



File: EAC 06 205 53582 Office: VERMONT SERVICE CENTER Date: SEP 07 2007

IN RE: Petitioner:
Beneficiary:



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

IN 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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant visa petition seeking to employ the beneficiary in the position of managing director to open a new office as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner is a limited liability company organized under the laws of the State of Florida and will allegedly operate an ice cream establishment. The director denied the petition concluding that the petitioner did not establish (1) that the United States operation, within one year of petition approval, will support an executive or managerial position; or (2) that the petitioner has secured sufficient physical premises to house the new office.

The petitioner filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review.

A review of Citizenship and Immigration Services records indicates that this beneficiary is also the beneficiary of an approved L-1A nonimmigrant petition filed by the same petitioning organization, valid from August 1, 2007 until July 31, 2008 (EAC 07 211 52529). While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is either presently in L-1A status or is able to apply for the appropriate visa abroad, and the issues in this proceeding are moot. Therefore, this appeal is dismissed.¹

ORDER: The appeal is dismissed as moot.

¹It is noted that, in the appeal, the petitioner failed to specifically identify any erroneous conclusion of law or statement of fact for the appeal. To the contrary, the petitioner argues that it corrected those deficiencies identified by the director in the decision after the petition was filed. However, the petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978). Since 8 C.F.R. § 103.3(a)(1)(v) requires the AAO to summarily dismiss an appeal when the appellant fails to identify specifically any erroneous conclusion of law or statement of fact, the AAO would be obligated to summarily dismiss the current appeal if the appeal were not being dismissed as moot.