



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

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

In Re: 28566204

Date: DEC. 8, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a financial manager, seeks classification as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that a waiver of the job offer requirement is 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 dismiss 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.

An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. 8 C.F.R. § 204.5(k)(2). A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. *Id.*

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. While neither statute nor the pertinent regulations define the term "national interest," *Matter*

of *Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as a matter of discretion,¹ grant a national interest waiver if the petitioner demonstrates that:

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

II. ANALYSIS

We will first address the Petitioner's qualification for the EB-2 classification. The Director found that the Petitioner qualifies for the EB-2 classification as an advanced degree professional, but did not explain the basis for this conclusion. The Petitioner claims that she has obtained the foreign equivalent of a bachelor's degree in law and an MBA (master of business administration) degree and has approximately 15 years of experience in real estate and finance.²

To establish the MBA degree, the Petitioner submitted evidence of completion of a "*lato sensu*" course certificate entitled "Executive MBA in Administration: real estate and civil construction business management" from the [redacted] in Brazil in 2016. However, according to the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE), a *lato sensu* course certificate is not necessarily evidence of completion of a graduate degree program.³ The database states that *lato sensu* or "wide sense" graduate programs "lead toward a professional certificate, not to graduate degrees; graduate credits may be awarded."⁴ The database contrasts this with *stricto sensu* or "strict sense" graduate programs which do lead toward graduate degrees.⁵ Although the Petitioner submitted an evaluation of her academic credentials, the evaluator does not discuss this MBA certificate specifically, does not address the distinction between *lato sensu* and *stricto sensu* programs in Brazil, and does not explain why this *lato sensu* course certificate should be considered equivalent to a U.S. master's degree. Therefore, we conclude that the Petitioner has not established that her MBA certificate is the equivalent of an academic or professional degree above that of a bachelor's degree. See 8 C.F.R. § 204.5(k)(2).

As noted above, the Petitioner also claims to have a bachelor's degree in law, and the record does establish that the Petitioner obtained the foreign equivalent of a bachelor's degree in law in 2003 in

¹ See also *Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature).

² The Petitioner also submitted evidence of obtaining a title of technologist diploma in financial management, which the Petitioner states is equivalent to an associate's degree in the United States. Additional education in the field may be relevant in establishing whether a petitioner is well-positioned to advance their endeavor. *Matter of Dhanasar*, 26 I&N Dec. at 890. However, because an associate's degree is not equivalent to a bachelor's degree or higher, it is not relevant in establishing eligibility for the EB-2 classification. See 8 C.F.R. § 204.5(k)(2).

³ We consider EDGE to be a reliable source of information about foreign credential equivalencies. See *Confluence Intern., Inc. v. Holder*, Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). See also *Viraj, LLC v. Holder*, No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013).

⁴ See <https://www.aacrao.org/edge/country/glossary/brazil> for more information.

⁵ *Id.*

Brazil. The Petitioner also submitted a letter from her employer stating that she has been employed with the organization since 2004, stating that she is the Financial and Administration Director of the organization, and describing her duties in that position. The letter is brief in its description of the Petitioner's current duties, and, although other documents in the record indicate that the Petitioner has held prior positions with the company, these are not described in the letter. Nevertheless, we conclude that the letter, in conjunction with the other evidence in the record such as letters of recommendation from colleagues and associates, is sufficient to establish by a preponderance of the evidence that the Petitioner has obtained at least five years of progressive experience in real estate and finance. Therefore, the Petitioner has established that she has obtained the foreign equivalent of a bachelor's degree followed by at least five years of progressive experience in the specialty and thus qualifies for the EB-2 classification. 8 C.F.R. § 204.5(k)(2).

We turn next to the Petitioner's request for a national interest waiver under the *Dhanasar* framework. The Director concluded that the Petitioner established only the substantial merit of the proposed endeavor. The Director found that the Petitioner did not establish the national importance of the proposed endeavor, that she is well-positioned to advance it, or that, on balance, waiving the job offer requirement would benefit the United States. On appeal, the Petitioner submits additional evidence and a brief in which she asserts that she has established eligibility for a national interest waiver.

The Petitioner's proposed endeavor is to create more affordable and environmentally sustainable housing. The Petitioner states that she will pursue her endeavor through a company that she has established in Florida which will offer advisory and consulting services to businesses and individuals in the homebuilding industry, specializing in affordable housing and environmentally sustainable projects. The Petitioner's business plan, submitted in response to the Director's request for evidence (RFE), states that the company will offer "a full range of construction consulting services across the project duration, from project planning to execution and sales of developed properties." The business plan further states that the company will provide market research services, locate properties suitable for affordable housing development, create project specifications, analyze microeconomic conditions of the target markets, and analyze real estate trends, government regulations, and subsidy programs.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

In finding that the Petitioner did not establish the national importance of the proposed endeavor, the Director found that there was insufficient evidence in the record to support the Petitioner's claims that the endeavor stands to "substantially enhance the U.S. business, real estate, and civil construction industries." The Director discussed the Petitioner's business plan and concluded that it did not demonstrate significant potential to employ U.S. workers or that the business would contribute to the national economy as claimed by the Petitioner. The Director concluded that the evidence did not demonstrate that the potential benefits of the Petitioner's work would extend beyond the company to impact the field more broadly. Finally, the Director noted that throughout the record the documents

emphasize the importance of the field in which the Petitioner works, but that in determining national importance, the analysis should focus on the impact of what the Petitioner intends to do rather than the occupational classification.

On appeal, the Petitioner asserts that the Director did not sufficiently consider the economic benefits projected in the business plan. The Petitioner notes that the business plan projects that by year five the company will have six total employees and will pay nearly \$350,000 in payroll taxes. The Petitioner also asserts that the company's business operations will have a "ripple effect" on the economy. The Petitioner states for example, "the spending by suppliers of materials and services and others to keep up with the business, and induced impacts such as spending of earnings . . ., for example a construction worker buying lunch or groceries." Although the business plan states that the company will hire workers and thus pay payroll taxes, the Petitioner has not established that the creation of six jobs in five years would result in the type of "substantial positive economic effects" that are required for national importance. *Matter of Dhanasar*, 26 I&N Dec. at 890. Additionally, the evidence in the record does not quantify the claimed indirect economic impacts of the company or otherwise establish that they would be substantial. As such, we conclude that the record does not demonstrate that the economic impacts of the proposed endeavor stand to rise to the level of national importance.

The Petitioner next asserts that the proposed endeavor will have a substantial impact on housing shortages. The Petitioner discusses the shortage of public housing and affordable housing in the United States and asserts that her endeavor will contribute significantly to addressing these problems in the United States. However, these claims are not supported by the evidence in the record. Although the Petitioner submitted articles and reports related to the lack of affordable housing in the United States, the U.S. housing market in general, and the impact of real estate on the economy, the Petitioner does not credibly explain how the Petitioner's construction consulting business would address or impact these issues in a manner that rises to the level of national importance. We agree with the Director that in determining whether a proposed endeavor has national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the [noncitizen] proposes to undertake." *See id.* at 889.

The Petitioner also claims on appeal that the proposed endeavor will help companies implement sustainable construction methods. The Petitioner discusses on appeal the benefits of sustainable construction methods in general, claiming that it promotes healthier living, reduces waste, boosts the economy, promotes cost efficiency, decreases costs, and reduces carbon footprint. The Petitioner also discusses statistics related to the rising demand for sustainable construction methods and the environmental impacts of the construction industry. While the Petitioner has submitted articles and reports related to these topics, similar to the Petitioner's claims related to affordable housing, the evidence does not credibly demonstrate how the Petitioner's endeavor would address or impact this issue in a manner commensurate with national importance.

Finally, we conclude that the additional evidence submitted on appeal does not establish the national importance of the proposed endeavor. The Petitioner submits four additional articles on appeal related to affordable housing and sustainable construction. The Petitioner does not discuss or address this evidence on appeal as it relates to the national importance of the proposed endeavor. Moreover, rather than providing additional evidence that helps demonstrate the potential prospective impact of the

Petitioner's specific endeavor, the evidence is cumulative of the articles and reports already in the record that relate to affordable housing and sustainable construction in general.

Although the Petitioner asserts on appeal that the Director did not sufficiently consider the potential economic benefits of the Petitioner's company or its potential impact on affordable housing and the environment, upon review of the record we conclude that the Petitioner has not sufficiently established that these potential impacts rise to the level of national importance. Because the documentation in the record does not establish national importance as required by the first prong of the *Dhanasar* framework, the Petitioner has not demonstrated eligibility for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second and third *Dhanasar* prongs. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where the applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework. We therefore conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.