



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

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

In Re: 33243071

Date: SEP. 10, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, an urban planner, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this 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 record did not establish that the Petitioner established eligibility for a national interest waiver of the job offer requirement for EB-2 classification. The matter is now before us on appeal pursuant to 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 qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

An advanced degree is any U.S. academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A U.S. 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.

If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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, 889 (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,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.

Id.

II. ANALYSIS

A. Member of the Professions Holding an Advanced Degree

The Petitioner submitted an Attestation of Graduation and accompanying transcript showing that she completed a five-year bachelor's Degree of License in architectural engineering at [REDACTED] in Syria. Additionally, she provided a Degree Certificate and accompanying transcript and Diploma Supplement showing she earned a master's degree in sustainable urban planning and design with a major in architecture from the [REDACTED] in Sweden. She has established that she has a foreign equivalent degree above a bachelor's degree. As she therefore qualifies for the second preference immigrant classification, we need not determine whether she also qualifies as an alien of exceptional ability.

B. National Interest Waiver

The Petitioner is currently employed as an urban planner at [REDACTED] a "technical consulting company in infrastructure and civil engineering" in Sweden. She proposes to open an urban planning department at [REDACTED] Virginia office. She states her focus would be "Creating Livable Cities Together" to help plan and design "sustainable and liveable cities" that "achieve a harmonious balance between people, the environment, and economic development." Further, she hopes to contribute to the management of population growth in the region through the planning of "15-minute cities," which allow people to reach "most daily amenities within a 15 to 20 minute walk, bike, or other modes of transportation from any point in the city, regardless of size." She also mentions plans to create an "urban planning consultancy" in [REDACTED] in the next five years.² For the reasons discussed below, the Petitioner has not established her eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

The first prong of *Dhanasar*, substantial merit and national importance, focuses on the specific endeavor that the individual 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. *Id.* at 889.

¹ See *Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS' decision to grant or deny a national interest waiver is discretionary in nature).

² It is not clear from the record whether this urban planning consultancy would be part of her employment at [REDACTED] or a separate business.

On appeal, the Petitioner argues that the Director mischaracterized her proposed endeavor, acknowledging only that she intended to work at [REDACTED] Virginia branch but not addressing her plan to develop 15-minute cities. However, the denial reflects that the Director considered the Petitioner's full proposed endeavor. The section of the denial discussing substantial merit provides the Petitioner's non-technical job description to "[d]evelop comprehensive plans and programs for use of land physical facilities, such as towns, cities, counties," and mentions her goal of opening an urban planning department at [REDACTED] in Virginia. However, in the next section discussing national importance, the denial acknowledges the Petitioner's arguments about her "endeavor of creating livable (15-minute) cities . . ." and explains why she has not established the national importance of her proposed endeavor. The record does not support the Petitioner's assertion that the Director "mistakenly determined the nature of the Petitioner's proposed endeavor" and therefore engaged in a flawed analysis.

As it relates to substantial merit, the endeavor's merit may be shown in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. *Id.* The Director determined the Petitioner established the substantial merit, but not the national importance, of the proposed endeavor.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.* In the "EB-2 National Interest Waiver Action Plan" (Action Plan) she initially submitted, the Petitioner states she will bring "Sweden's progressive urban design and planning methodologies" to the United States to create "cities that are sustainable, livable, and balanced in terms of social, economic, and environmental aspects." She notes she has support from management at [REDACTED] Sweden to become the "lead urban planner" at [REDACTED] Virginia office and that in that role she will do work that "contributes to stimulating economic activities across various sectors." Additionally, she states that through her urban planning consultancy she will offer "expertise in comprehensive urban strategies, sustainable real estate projects, community engagement, and sustainability consulting." She also discusses how the 15-minute city concept aligns with federal initiatives relating to climate change and sustainable urban development, and states that [REDACTED] and [REDACTED] Virginia are ideal locations for 15-minute city projects.

On appeal, the Petitioner contends that her proposed endeavor of creating 15-minute cities "addresses crucial aspects of modern urban life, including health, sustainability, economic growth, social equity, quality of life, resilience, innovation, and global competitiveness. These aspects are interwoven with national priorities and are essential for the long-term prosperity and well-being of the nation." Further, she argues that she has submitted evidence to show that aspects of 15-minute cities relating to development of harbors and ports, solar power, recharge stations, preservation of cultural heritage, inclusive housing, bridges and roads, and public transportation are each nationally important. In support of her appeal, the Petitioner submits an updated letter of recommendation from a colleague at [REDACTED] Sweden. The letter discusses some of the Petitioner's projects and accomplishments during her employment there and the skills and experience she could bring to her work on planning 15-minute cities in the United States.

The Petitioner has submitted documentation³ about a wide range of topics, including urban planning and urbanization in general, urban planner jobs, the economic importance of cities, the connection between urban planning and public health, and the importance of ports, bridges, solar energy, and public transportation. Additionally, she provides articles about federal support for projects focusing on energy conservation, clean energy, and electric vehicles; preservation of cultural resources; diversity, equity, inclusion, and accessibility; and sustainability. She also submits information about the benefits and potential development of 15-minute cities, the concept of liveable cities, and an article stating that the 15-minute city concept is already being applied in [REDACTED] Virginia. However, the matter here is not whether these topics and initiatives are nationally important. Instead, the Petitioner must demonstrate the national importance of her specific, proposed endeavor of starting an urban planning department at [REDACTED] Virginia branch and working on 15-minute city projects nearby.

In *Dhanasar*, we noted that “we look for broader implications” of the proposed endeavor and that “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field.” *Id.* We also stated that “[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance.” *Id.* at 890.

The Petitioner provides documentation and letters of recommendation regarding her education and work experience. However, the Petitioner’s knowledge, skills, and abilities relate to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to the foreign national.” *Id.* at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar*’s first prong. Although the letters discuss the Petitioner’s prior projects, the letters do not show the broader impact of the Petitioner’s work rather than limited to her specific clients. Moreover, the letters cover the Petitioner’s past work and accomplishments and relate more to the second prong rather than the first prong of the *Dhanasar* framework. *Id.* at 890.

To evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement, we look to evidence documenting the “potential prospective impact” of the work. *Id.* at 889. Here, the Petitioner did not demonstrate how her services would largely influence the field and rise to the level of national importance. In *Dhanasar*, we determined the petitioner’s teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. The record does not show through supporting documentation how the Petitioner’s endeavor sufficiently extends beyond her employer and any prospective clients to impact the field or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not show that her work in urban planning and focus on 15-minute cities would have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. While the Petitioner’s Action Plan states that her urban planning consultancy would create employment opportunities in the region and would have a “ripple effect” resulting in employment demand in professions relating to urban planning nationwide, the Petitioner does not explain or demonstrate how her particular proposed endeavor would have projected U.S. economic impact or job creation. Without such evidence, the record does not show that benefits to

³ Although we may not discuss every document submitted, we have reviewed and considered each one.

the U.S. regional or national economy resulting from her services or position would reach the level of “substantial positive economic effects” as contemplated by *Dhanasar*. *Id.* at 890.

Because the documentation in the record does not establish the national importance of the proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of the Petitioner’s eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.⁴

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, she has not demonstrated eligibility for a national interest waiver as a matter of discretion. The appeal will be dismissed.

ORDER: The appeal is dismissed.

⁴ 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 alternate issues on appeal where applicants do not otherwise meet their burden of proof).