U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Public Engagement
Washington, DC 20529

U.S. Citizenship and Immigration Services

Tenant Occupancy

In our last stakeholder call regarding the EB-5 immigrant investor program, a number of stakeholders raised questions with respect to our adjudication of petitions that for purposes of the job creation requirement have utilized what has been commonly termed a “tenant-occupancy” methodology. In light of the number of questions we received on this subject, we thought that providing clarification of our approach was warranted.

The “tenant-occupancy” methodology seeks credit for job creation by independent tenant businesses that lease space in buildings developed with EB-5 funding. USCIS continues to recognize that whether it is economically reasonable to attribute such “tenant-occupancy” jobs to the underlying EB-5 commercial real estate project is a fact-specific question. Each case filed will depend on the specific facts presented and the accompanying economic analysis.

USCIS is now moving forward with the adjudication of certain pending I-924 Applications For Regional Centers Under the Immigrant Investor Pilot Program that are supported by the “tenant-occupancy” economic methodology. Our newly-hired economists and business analysts will be bringing expertise to these new adjudications, and requests for evidence will be issued to certain applicants and petitioners to address any questions or issues we have about the economic methodologies employed in their specific cases. Our adjudications will continue to be made on a case-by-case basis and we do not intend to revisit factual findings. I-526 Immigrant Petitions by Alien Entrepreneurs and I-829 Petitions by Entrepreneurs to Remove Conditions will have predictability in connection with early regional center adjudications.

Our retention of experts with economic and business analysis expertise is part of our ongoing efforts to improve our administration of the EB-5 program. We are taking other steps to both improve the efficiency of the program as well as to ensure its integrity. We look forward to keeping you informed of these improvements.

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