The Leadership Conference
on Civil and Human Rights

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The Leadership Conference

Testimony of Nancy Zirkin, Executive Vice President
The Leadership Conference on Civil and Human Rights

Hearing on "Is the Investor Visa Program an Underperforming Asset?"

Committee on the Judiciary
United States House of Representatives
February 11, 2016

Chairman Goodlatte, Ranking Member Conyers, and members of the Committee: thank you for holding today's hearing entitled "Is the Investor Visa Program an Underperforming Asset?" On behalf of The Leadership Conference on Civil and Human Rights, I am pleased to submit this written testimony for the record.

The Leadership Conference on Civil and Human Rights is the nation's oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference provides a powerful unified voice for the various constituencies of the coalition and is charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States. Through advocacy and outreach to targeted constituencies, The Leadership Conference works toward the goals of a more open and just society - an America that is as good as its ideals.

The Leadership Conference believes that the question that this hearing poses has a very clear answer: the Investor Visa Program is unequivocally not performing as it should be in terms of job creation development in rural and high unemployment areas, and it must be reformed if it is to be reauthorized in September 2016. If it does not undergo significant reforms to address ongoing fraud and abuse within the program and channel significant investment and job creation to our neediest communities, there is no justification to continue the Investor Visa Program.

The EB-5 immigration investor program gives foreign investors the opportunity to attain U.S. residence status when they invest $1 million in a business in the United States that creates 10 American jobs. When the project is in a rural or high unemployment area that is designated as a Targeted Employment Area (TEA), the investment threshold is cut in half to $500,000 in order to incentivize capital investment in these communities. Through the EB-5 regional center program, EB-5 investors can pool capital, thereby creating greater investment in communities where traditional financing is often difficult to get.

Under the current regime, the EB-5 Regional Center Program fails to channel significant resources into rural and high unemployment urban areas because of the misuse of TEAs. Based on news accounts, money that should be channeled to these areas is instead largely being siphoned off by developers working in affluent areas.[1] And while each investor visa is required by law to create 10 jobs, because of scant data collection and requirements we have no idea whether the program has actually resulted in job creation in our most needy communities. We must correct this data collection problem.

To say that the Investor Visa Program is an underperforming asset is in fact actually an understatement. The Leadership Conference believes that the EB-5 Regional Center Program has dramatically deviated from its original purpose – to spur job creation and development in rural and high unemployment urban areas. The original intent of Congress should be honored and EB-5 regional center investments should be redirected toward the rural and high unemployment urban neighborhoods that need them the most. When the law took effect in October 1991, the late Senator Ted Kennedy noted that "Ten thousand 'job creation' visas are provided for investors who invest in enterprises, especially in depressed rural or urban areas, which create a minimum of 10 new jobs for Americans."[2] Simply put, we need the bulk of funds from investor visas to be channeled into infrastructure and development in under-resourced communities in Detroit, Ferguson, and Appalachia, not to projects in Lower Manhattan and Beverly Hills. This was the original congressional intent for the program, and it must be restored in any reauthorization of the program.

The Leadership Conference considers the reauthorization of the Investor Visa Program a civil rights issue. The March on Washington in 1963 was for Jobs and Freedom, and our fight for access to jobs for communities of color continues today. Our nation must prioritize job creation and development directly in our most needy communities, or these communities will continue to fall further behind. The EB-5 Regional Center Program was intended to incentivize this kind of job creation and development in rural and high unemployment areas. Although the national unemployment numbers are now below 5 percent, this is not the reality for too many of our communities that are still struggling to get by. The Bureau of Labor Statistics reported that in January 2016, the overall jobless rates for African Americans and Latinos was at 8.8 percent and 5.9 percent respectively.[3] Poverty has become increasingly concentrated in the United States, and today high-poverty neighborhoods are home to more than half of all people living in poverty. Our communities therefore need not only job creation, but also direct capital investment. Direct investment in these high-poverty neighborhoods will unlock opportunity in low-income communities and stimulate their local economies. It is not enough to have development in nearby areas that low-income workers can commute to; it is imperative that Investor Visa funds go directly into building infrastructure

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[1] Brown, Eliot. (2015, September 9). How a U.S. Visa-for-Cash Plan Funds Luxury Apartment Buildings. Program meant to spur jobs in poor areas largely finances developments in affluent neighborhoods. *The Wall Street Journal*. Retrieved from http://www.wsj.com/articles/how-immigrants-cash-funds-luxury-towers-in-the-u-s-1441848965

[2] Bhatt, Sanjay. (2015, March 7). Money from investor visas flood U.S., but doesn't reach targeted poor areas. *The Seattle Times*. Retrieved from http://www.seattletimes.com/business/real-estate/money-from-investor-visas-floods-us-doesnt-reach-poor-areas-meant-to-benefit/.

[3] Bureau of Labor Statistics, U.S. Department of Labor. News Release, The Employment Situation – January 2016. (2016, February 5). Retrieved from http://www.bls.gov/news.release/pdf/empsit.pdf.

in communities in West Baltimore and the South Bronx and the like. Projects in neighboring areas will leave these communities of concentrated poverty no better off in terms of development and infrastructure after their conclusion.

Last year, The Leadership Conference was pleased to work on bipartisan efforts to reform the Investor Visa Program. Chairman Goodlatte, Ranking Member Conyers, and Rep. Lofgren deserve many thanks for their leadership in the House of Representatives on this issue, as do your colleagues in the Senate Judiciary Committee, Chairman Grassley, and Ranking Member Leahy. Two of the letters that we sent to Congress supporting reform efforts are attached to this testimony, along with three news reports detailing the misuse and abuse of TEAs in the program.

We were very disappointed that negotiations failed to produce much-needed reforms to the program late last year, and that a 10-month clean extension was provided in the omnibus appropriations bill. When the EB-5 Regional Program is up for reauthorization at the end of September, it must not be given another clean extension. To do so would be to maintain the status quo, robbing low-income rural and urban communities of the job creation and investment that the program was intended to incentivize. The Investor Visa Program was never intended to provide cheap financing for projects in prosperous neighborhoods rather than in the communities that need it the most, and this practice must come to an end.

My final point today is that some have painted this as a rural versus urban issue, but The Leadership Conference does not see it that way. We believe that this is a status quo versus congressional intent issue. And it is above all else about doing what is right by our most needy communities.

Thank you for the opportunity to submit this testimony today.

Attachments:

Letter to Senate, "Support Reforms to the EB-5 Regional Center Program: Co-Sponsor S. 1501, the American Job Creation and Investment Promotion Reform Act of 2015." (October 16, 2015)

Letter to Senate, "Support The American Job Creation and Investment Promotion Reform Act" Reforms to the EB-5 Regional Center Program are Needed." (December 3, 2015)

McGeehan, Patrick and Kirk Semple. (2011, December 18). Rules Stretched as Green Cards Go to Investors. The New York Times. http://www.nytimes.com/2011/12/19/nyregion/new-york-developers-take-advantage-of-financing-for-visas-program.html

Brown, Eliot. (2015, September 9). How a U.S. Visa-for-Cash Plan Funds Luxury Apartment Buildings. Program meant to spur jobs in poor areas largely finances developments in affluent neighborhoods. *The Wall Street Journal*. http://www.wsj.com/articles/how-immigrants-cash-funds-luxury-towers-in-the-u-s-1441848965

Bhatt, Sanjay. (2015, March 7). Money from investor visas flood U.S., but doesn't reach targeted poor areas. *The Seattle Times*. http://www.seattletimes.com/business/real-estate/money-from-investor-visas-floods-us-doesnt-reach-poor-areas-meant-to-benefit/

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October 16, 2015

The Leadership Conference

**SUPPORT REFORMS TO THE EB-5 REGIONAL CENTER PROGRAM:
Co-Sponsor S. 1501, the American Job Creation and Investment Promotion Reform Act of 2015**

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, we write to express our support for S. 1501, the American Job Creation and Investment Promotion Reform Act of 2015. We applaud Senators Leahy and Grassley for their leadership in co-sponsoring this bipartisan legislation, and we urge you and your colleagues to co-sponsor it.

Congress originally created the EB-5 regional center program to promote capital investment and job creation in rural and high unemployment urban communities. Since then, however, reports indicate that the program has been misused, with EB-5 regional center investments largely going to finance developments in wealthy neighborhoods. S.1501 would provide a much-needed course correction to the EB-5 regional center program by strengthening the definition of "Targeted Employment Area" (TEA) so that the original intent of Congress is honored and EB-5 regional center investments are targeted towards the rural and high unemployment urban neighborhoods that need them the most.

The Leadership Conference strongly believes that the lodestar for the reauthorization of the EB-5 regional center program must be job creation and investment in rural and high unemployment urban areas. As the communities we represent know all too well, many families are still struggling as the economy continues to recover from the recession. Indeed, unemployment and underemployment continue to be uneven among different racial and ethnic groups, as well as in different geographic regions. In June 2015, when the national unemployment rate was reported as 5.3 percent, African Americans and Latinos had much higher unemployment rates, coming in at 9.5 percent and 6.6 percent respectively.[1] Nationally, whites had an unemployment rate of 4.6 percent,[2] but we know this figure fails to capture regional disparities.[3] Our nation can only justify the continued existence of the EB-5 program if it actually follows through on its original mission: directing investments from EB-5 visas to rural and high unemployment urban areas that spur job creation and investment in these communities.

The EB-5 immigration investor program gives foreign investors the opportunity to attain U.S. residence status when they invest $1 million in a business in the United States that

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[1] Wilson, Valerie. "Black Unemployment Rate Dips Below 10 Percent in 11 of 24 States Measured in Second Quarter." Economic Policy Institute 4 Aug 2015. http://www.epi.org/publication/black-unemployment-rate-dips-below-10-percent-in-11-of-24-states-measured-in-second-quarter/

[2] *Ibid.*

[3] http://www.bls.gov/web/laus/laumstrk.htm

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creates 10 American jobs. When the project is in a rural or high unemployment area, the investment threshold is cut in half, to $500,000, in order to incentivize capital investment in these communities. Through the EB-5 regional center program, EB-5 investors can pool capital, thereby creating greater investment in communities where traditional financing is often difficult to get.

Unfortunately, it appears that the capital from EB-5 regional centers has primarily been used as a source of cheap financing for projects in prosperous neighborhoods rather than in the communities that need it the most. As *The Wall Street Journal* noted, "A primary concern is that the use of EB-5 financing for high-price condo and office towers sops up the program's capacity and leaves poorer communities out in the cold. No more than 10,000 visas that lead to permanent-resident status can be given out each year under the program. It hit the limit in the fiscal year ended Sept. 30, 2014."[4]

It is particularly odious that many such developments have, through gerrymandering, qualified as "Targeted Employment Areas" purportedly located in high unemployment areas. We support efforts to strengthen the definition of a TEA to avoid continued abuse of the program and to help direct job creation to those most in need. S.1501's requirement that projects use a single Census tract when defining its boundaries is a good one. Similarly, we support efforts to refine how job creation is calculated by EB-5 projects to ensure that the 10 jobs required per EB-5 investor are being created in reality. We applaud the requirement in S.1501 that petitioners must show that it is reasonably likely that 50 percent of the estimated job creation will occur within the area surrounding the TEA.

Finally, we strongly oppose S. 2115, the Targeted Employment Areas Improvement Act. We oppose the use of "commuter flow patterns" to define high unemployment areas for classification as a TEA, as proposed in this bill. Simply put, commuter flow patterns have nothing to do with targeting EB-5 investor funds to high unemployment areas and to suggest otherwise is preposterous. We need serious solutions to job creation and development in our most needy communities, and this is assuredly not that solution. Continuing to provide access to cheap financing for developers in affluent areas is not in the best interest of our most needy communities, or of our nation.

For these reasons, we support reforms to the EB-5 regional center program and urge you to co-sponsor S. 1501, the American Job Creation and Investment Promotion Reform Act of 2015. Thank you for your consideration. If you have any questions, please contact Emily Chatterjee, Senior Counsel at (202) 466-3648.

Sincerely,

Wade Henderson
President & CEO

Nancy Zirkin
Executive Vice President

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[4] Brown, Eliot. "How a U.S. Visa-for-Cash Plan Funds Luxury Apartment Buildings. Program meant to spur jobs in poor areas largely finances developments in affluent neighborhoods." *The Wall Street Journal* 9 Sept 2015. http://www.wsj.com/articles/how-immigrants-cash-funds-luxury-towers-in-the-u-s-1441848965

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The Leadership Conference

December 3, 2015

Support The American Job Creation and Investment Promotion Reform Act:
Reforms to the EB-5 Regional Center Program are Needed

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, we write to express our strong support for the bipartisan, bicameral efforts to reform and provide long term re-authorization for the EB-5 Regional Center Program before its December 11, 2015 expiration date. We applaud Senate Judiciary Chairman Chuck Grassley (R-IA), Committee Ranking Member Patrick Leahy (D-VT), and House Judiciary Chairman Bob Goodlatte (R-VA), Ranking Member John Conyers (D-MI), Immigration Subcommittee Ranking Member Zoe Lofgren (D-CA) and Congressman Darrell Issa (R-CA), for their leadership in drafting and supporting this bipartisan compromise, The American Job Creation and Investment Promotion Reform Act (the Proposal). This Proposal strengthens definitions for targeted employment areas to ensure that investment reaches the communities that need it most. Importantly, the Proposal includes a set-aside of 2,000 visas for projects specifically located in distressed urban areas. We urge you and your colleagues to support it.

Congress originally created the EB-5 regional center program to promote capital investment and job creation in rural and high unemployment urban communities. Since then, however, reports indicate that the program has been misused, with EB-5 regional center investments largely going to finance developments in wealthy neighborhoods. The Proposal would provide a much-needed course correction to the EB-5 regional center program by restoring the original intent of Congress to target EB-5 regional center investments toward the rural and high unemployment urban neighborhoods that need them the most.

The Leadership Conference strongly believes that the lodestar for the reauthorization of the EB-5 regional center program must be job creation and investment in rural and high unemployment urban areas. As the communities we represent know all too well, many families are still struggling as the economy continues to recover from the recession. Indeed, unemployment and underemployment continue to be uneven among different racial and ethnic groups, as well as in different geographic regions. In June 2015, when the national unemployment rate was reported as 5.3 percent, African Americans and Latinos had much higher unemployment rates, coming in at 9.5 percent and 6.6 percent respectively.[1] Nationally, whites had an unemployment rate of 4.6 percent,[2] but we know this figure fails to capture regional disparities.[3] Our nation can only justify the continued existence of the EB-5

[1] Wilson, Valerie. "Black Unemployment Rate Dips Below 10 Percent in 11 of 24 States Measured in Second Quarter." Economic Policy Institute 4 Aug 2015. http://www.epi.org/publication/black-unemployment-rate-dips-below-10-percent-in-11-of-24-states-measured-in-second-quarter/
[2] *Ibid.*
[3] http://www.bls.gov/web/laus/laumstrk.htm

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program if it actually follows through on its original mission: directing investment from this visa-for-sale program to rural and high unemployment urban areas in order to spur much-needed job creation in these communities.

Currently, the EB-5 immigration investor program gives foreign investors the opportunity to attain U.S. residence status when they invest $1 million in a business in the United States that creates 10 American jobs. When the project is in a rural or high unemployment area, the investment threshold is cut in half, to $500,000, in order to incentivize capital investment in these communities. Through the EB-5 regional center program, EB-5 investors can pool capital, thereby creating greater investment in communities where traditional financing is often difficult to get.

The Proposal would:

- **Extend the program** through September 2019;
- **Provide increased authority to DHS** to deny or terminate applications where there is fraud, criminal misuse, or a threat to public safety or national security;
- **Establish an "EB-5 Integrity Fund"** in which regional centers and investors would pay fees to be used by DHS to conduct audits and site visits to detect and investigate fraud in the United States and abroad;
- **Require background checks** of regional center and project principals;
- **Require more disclosures to investors** regarding business risks and conflicts of interest;
- **Require more oversight** of projects and **closer monitoring** for securities compliance;
- **Strengthen the incentives for investment in distressed areas** so more capital reaches urban poor and rural areas, as Congress originally intended;
- **Raise the lower investment threshold to $800,000** to ensure more money goes to the areas that need it, and provide a mechanism for automatic adjustments going forward;
- **Improve how jobs are calculated** to ensure that EB-5 projects truly create the statutorily-required 10 jobs per investor;
- **Improve accountability and transparency** by requiring that DHS employees document certain communications and by prohibiting preferential treatment; and
- **Decrease petition processing times**, which have been plagued by massive delays, by providing premium processing and requiring fees to be adjusted to the rate necessary to achieve efficient processing.

For these reasons, we support reforms to the EB-5 Regional Center Program and urge you to support the Proposal. For more information, please contact the following individuals: Senate staff: David Pendle (Leahy) at (202) 224-7703 and Kathy Nuebel (Grassley) at (202) 224-5225; House staff: Danielle Brown (Conyers) at (202) 225-5126 and George Fishman (Goodlatte) at (202) 225-3951.

If you have any other questions, please contact Nancy Zirkin (202) 263-2880 or Emily Chatterjee, Senior Counsel at (202) 466-3648. Thank you for your consideration.

Sincerely,

Wade Henderson
President & CEO

Nancy Zirkin
Executive Vice President

The New York Times

N.Y. / REGION

Rules Stretched as Green Cards Go to Investors

By PATRICK McGEEHAN and KIRK SEMPLE DEC. 18, 2011

Affluent foreigners are rushing to take advantage of a federal immigration program that offers them the chance to obtain a green card in return for investing in construction projects in the United States. With credit tight, the program has unexpectedly turned into a mainstay for the financing of these projects in New York, California, Texas and other states.

The number of foreign applicants, each of whom must invest at least $500,000 in a project, has nearly quadrupled in the last two years, to more than 3,800 in the 2011 fiscal year, officials said. Demand has grown so fast that the Obama administration, which is championing the program, is seeking to streamline the application process.

Still, some critics of the program have described it as an improper use of the immigration system to spur economic development — a cash-for-visas scheme. And an examination of the program by The New York Times suggests that in New York, developers and state officials are stretching the rules to qualify projects for this foreign financing.

These developers are often relying on gerrymandering techniques to create development zones that are supposedly in areas of high unemployment — and thus eligible for special concessions — but actually are in prosperous ones, according to federal and state records.

One of the more prominent projects is a 34-story glass tower in Manhattan that is to cost $750 million, one-fifth of which is to come from foreign investors seeking green cards. Called the International Gem Tower, it is rising near Fifth Avenue in the diamond district of Manhattan, one of the wealthiest areas in the country.

Yet through the selective use of census statistics, state officials have classified the area as one plagued by high unemployment, the federal and state records show. As a result, the developer has increased the project's chances of attracting foreigners who will accept little, if any, return on their investment in the project if it means they can secure American visas for their families.

A senior federal immigration official, Alejandro Mayorkas, acknowledged in an interview on Friday that the program might need more scrutiny. Mr. Mayorkas and other federal officials said they were concerned that some of the maps that New York and other states were approving might not adhere to the spirit and intent of the regulations.

The Times's review of the program in New York indicates that several other major projects are also based on questionable maps.

For example, the Battery Maritime Building, at the foot of Manhattan near Wall Street, has been classified as being located in an area that needs help attracting jobs. That designation is the result of a development zone whose outlines resemble a gerrymandered political district, project documents show.

The zone snakes up through the Lower East Side, skirting the wealthy enclaves of Battery Park City and TriBeCa, and then jumps across the East River to annex the Farragut Houses project in Vinegar Hill, Brooklyn.

In fact, the small census tract that contains the Farragut Houses has become a go-to area for developers seeking to use the visa program: its unemployed residents have been counted toward three projects already.

The giant Atlantic Yards project in Brooklyn, which abuts well-heeled brownstone neighborhoods, has also qualified for the special concessions using a gerrymandered high-unemployment district: the crescent-shaped zone swings more than two miles to the northeast to include poor sections of Crown Heights and Bedford-Stuyvesant. A local blogger and critic of Atlantic Yards, Norman Oder, has referred to the map as "the Bed-Stuy Boomerang."

Since 2008, developers have raised or have planned to raise close to $1 billion on these projects in New York City, according to federal and state records. Almost all of that money would come in increments of $500,000 — much of it from residents of China — and pour into wealthy areas.

In interviews, New York State economic-development officials praised the program but were reluctant to accept responsibility for administering it. Indeed, some state officials who certified projects for the program acknowledged that they did not know what was being built. They said they were following guidance from federal regulators.

"This program serves as a valuable tool to support job-creating projects that will put areas of high unemployment on a continued path to economic recovery and growth," said Austin Shafran, a spokesman for Empire State Development, the state agency that oversees the program in New York.

Urged on by federal and state officials, investors in faraway places like Shanghai and Seoul along with American developers have been flocking to the program, which was created by Congress during the recession of 1990.

Under the program, known as EB-5, investors receive a visa that provides residency for two years and can be converted into a permanent green card if the holders can show the investment produced at least 10 jobs, even if the project has not been completed.

With the surge in EB-5 projects, many lawyers and consultants, in the United States and overseas, are getting involved. In China alone, more than 500 agents are jockeying to connect wealthy Chinese people to American developers, experts said.

Investors throng EB-5 conferences. Many, successful in their own countries, said they wanted to secure American residency for their children. But the competition has given rise to unsavory practices, EB-5 lawyers and consultants said, like agents who falsely promise guaranteed returns.

The minimum investment in the program was set at $1 million and has not changed in more than 20 years. But if the project is in a rural area or a place where the unemployment rate is 50 percent above the national average, the threshold for investing is $500,000, not $1 million.

By creating development zones that are ruled eligible for $500,000 investments, urban developers are at an advantage in luring contributions.

The zone drawn up for the Gem Tower consists of two census tracts in Midtown Manhattan. According to census figures, the tract that contains the project had an unemployment rate of zero for the last five years.

But the State Labor Department calculated that there were enough unemployed people in an adjoining census tract — one that includes Times Square — to justify calling the small zone an area of high unemployment.

Lela Goren, director general of Extell New York Regional Center, which is helping to raise the EB-5 investments for the Gem Tower, said she could not explain how the tower's zone qualified as needy. "It qualifies, whatever the numbers, and it got approved," Ms. Goren said.

The consultants arranging the EB-5 financing for the Battery Maritime and Atlantic Yards projects declined to comment.

Officials in other states expressed dismay over how New York developers were using the program. They said New York was unfairly siphoning off investments from less-developed areas.

"A lot of projects are in areas that are head-scratchers," said James Candido, an official with Vermont's Department of Economic Development.

Other states have sometimes not allowed such questionable development zones. California told a developer to relocate a manufacturing plant for a surgical-products company from a more prosperous part of San Jose to a poorer one, said Brook J. Taylor, a spokesman for the Governor's Office of Business and Economic Development in California.

Federal regulators said states determined whether projects were located in areas of "greatest need."

"The question is, are the state authorities adhering to the spirit of the law?" said Mr. Mayorkas, the federal immigration official who is the director of United States Citizenship and Immigration Services. "Where is the project being developed, and where are the jobs being created? Are the people from the areas of high unemployment being employed? Because that's really the purpose. If they're not being hired from those areas, then the question is justified."

Mr. Mayorkas, whose staff has been scrambling to keep up with the boom in the program, said in the interview on Friday that he was concerned about allegations of gerrymandering.

If some project designations were not achieving "legislative intent," he said, "then I think that is something that we need to consider as the laws are reviewed."

A version of this article appears in print on December 19, 2011, on page A1 of the New York edition with the headline: Rules Stretched As Green Cards Go to Investors.

http://www.seattletimes.com/business/real-estate/money-from-investor-visas-floods-us-doesnt-reach-poor-areas-meant-to-benefit/

Money from investor visas floods U.S., but doesn't reach targeted poor areas

Originally published March 7, 2015 at 8:00 pm Updated March 9, 2015 at 12:48 pm

Dexter Station, where Facebook plans to relocate its Seattle office, was built and financed partly by EB-5 funds.The visa program was intended to benefit depressed areas, not booming ones like Seattle. (Greg Gilbert / The Seattle Times)

By Sanjay Bhatt
Seattle Times business reporter

The developer of a 44-story downtown skyscraper boasts on its website that it's "a prestigious address in the center of Seattle's legal, financial, creative and technology workforces."

To state and federal officials, however, the backers of the $440 million Fifth & Columbia project present it as right in the middle of an area with double-digit unemployment.

The same goes for Stadium Place, a half-billion-dollar hotel, apartment and office project north of CenturyLink Field. Ditto for Dexter Station, a $150 million office building near South Lake Union, and Potala Tower, a $190 million hotel project in the upscale Belltown neighborhood.

How does downtown Seattle, the job center of the nation's fastest-growing big city, become Detroit on paper? Why would a project be portrayed in such different lights?

The answer is an opaque federal program, known as EB-5, that annually allots about 10,000 green cards, or permanent-residency visas, to wealthy foreigners who each invest $1 million in a U.S. enterprise that creates at least 10 permanent, full-time jobs.

Few of them actually pay that price. Instead they use a loophole that cuts the price of a green card to $500,000 if they invest in a rural area or urban one with high unemployment. The discount was intended to create jobs in depressed communities.

But here and elsewhere, the program is being exploited by promoters seeking ready capital for prominent, speculative projects in economically prosperous districts.

The rules allow them to string together several areas of high unemployment with one of low unemployment, like Manhattan or downtown Seattle, then build their project in the more prosperous area.

Henry Liebman, founder and CEO of Seattle-based American Life, one of the most prolific developers nationwide using EB-5 money, says the industry is simply doing what the government allows.

"If you don't like gerrymandering," he said, "change the rules."

The EB-5 program is so secretive and murky that its effectiveness in creating jobs and lowering unemployment is unknown, according to a Brookings Institution report.

A blistering critique by the Department of Homeland Security's Office of Inspector General in 2013 said there is so little tracking of EB-5 money that it's impossible for the federal government to show the resulting investments have created jobs.

Federal rules let states decide how the economically depressed areas are defined. Washington state lets EB-5 promoters qualify by defining a "targeted unemployment area" for the program not just from full census tracts, but from smaller zones called census block groups, making it easier to attach high-joblessness areas to the more desirable location.

"I've seen these areas of substantial unemployment gerrymandered across the country," said Paul Harrington, director of the Center for Labor Markets and Policy at Drexel University in Philadelphia.

Virtually no information is publicly available about individual projects or the criteria used to get them approved. And neither state nor federal officials will provide even a list of the projects or their targeted areas, calling it proprietary company information.

Research by The Seattle Times shows EB-5 financing is booming in the Puget Sound region, helping to bankroll more than $2 billion in current projects.

It's a nationwide surge. Investor applications for the federal program soared more than eightfold from 2008 to 2014.

Washington state plays a leading role. Industry pioneer American Life has recruited more than 10 percent of all EB-5 investors approved nationally for green cards since 1997. And Washington has more than 40 of the federally approved firms that pool capital from these immigrant investors, triple the number in 2013 and more than any other state except California, Florida, New York and Texas.

Even the state Department of Commerce's top EB-5 expert, James Palmer, left and launched one last year.

Meanwhile, the industry is lobbying Congress to make the program permanent before it expires in September. Under one pending bill, family members of immigrant investors would not be counted in the 10,000-visa cap, potentially tripling the number of green cards available to wealthy foreigners and their families.

The Wave apartment building is part of the Stadium Place hotel, apartment and office project north of CenturyLink Field in Seattle, financed by EB-5 money. (Mike Siegel / The Seattle Times)

Job targets

Some EB-5 projects in Washington have gone to areas struggling to create jobs, such as Grant County.

But more than half of the state's EB-5 projects relying on the high-unemployment incentive are in King County, although it has the lowest jobless rate of the 39 counties.

To steer capital to poor areas, the EB-5 law says immigrant investors can get the $500,000 green card by putting their money to work in a "targeted employment area" that has an average unemployment rate at least 150 percent of the national jobless rate.

The EB-5 industry often gets creative when defining such an area. In some cases, the building blocks for a targeted area stretch across a state or wind through a city with an irregular chain of carefully chosen census tracts.

EB-5 projects aren't required to hire residents of the area that is used to qualify for the program, either.

Bellevue attorney Cletus Weber, who works with EB-5 investors, argues that "even if you don't build right in the high-unemployment areas, that economic growth still benefits them."

The industry's trade group, the Association to Invest In the USA, or IIUSA, estimates that in 2012 the program created more than 19,000 jobs, mostly in construction, and the money spent by those workers created an additional 23,000 jobs.

Conflicts with intent

Today's steady stream of EB-5 projects in prosperous areas appears at odds with what Congress intended in creating "the millionaire visa" in 1990.

"Ten thousand 'job creation' visas are provided for investors who invest in enterprises, especially in depressed rural or urban areas, which create a minimum of 10 new jobs for Americans," said Sen. Ted Kennedy, D-Mass., when the law took effect in October 1991.

Demand was far lower than expected, however. Critics noted that Canada offered green cards to wealthy foreigners on much better terms.

A few years later, Congress liberalized the rules on how projects could take credit for creating jobs. And because Congress never raised the investment requirement, the visa effectively became cheaper, since the original $1 million threshold would be $1.8 million in today's dollars.

The EB-5 funding strategy took off in earnest after the 2008 financial crisis.

As conventional lenders spurned speculative projects, real-estate developers discovered that EB-5 investors were a patient and willing source of capital, less concerned about the risk.

"Most of my clients want the green card above all else," immigration attorney Nelson Lee told a Washington state legislative committee in 2013. The investors' attitude, said Lee, was "if I lose my money, I lose my money, but I don't want to lose the green card."

Skyscraper dreams

While EB-5 is a tiny fraction of the foreign direct investment in the United States, it's playing a role in a range of high-profile projects. Even New York's $20 billion Hudson Yards redevelopment project, reportedly the largest private construction project ever undertaken in the United States, has raised about $600 million through EB-5.

Seattle developer Kevin Daniels said he started considering the visa program after American Life, which manages 10 EB-5 investment centers nationwide, kept outbidding him in buying properties.

In 2008, Daniels Real Estate obtained permits to build Fifth & Columbia Tower, a glass-and-steel wonder that includes a 184-room luxury hotel and 528,000 square feet of office space.

But the Great Recession put Daniels' skyscraper dreams on hold. He admits he "put all his marbles" into obtaining financing through an EB-5 investment center based in New York, and "one year later I found out I worked with a crook."

Eventually, though, he did raise money through an EB-5 investment firm called Seattle Regional Center, run by Kevin Stamper.

Now, said Daniels, EB-5 capital accounts for about $250 million of Fifth & Columbia's $440 million project.

The targeted area initially approved by the state for the project consisted of 12 contiguous census tracts, stretching from Seattle's Queen Anne neighborhood down to SeaTac and Tukwila, Stamper said. The area's average unemployment rate was 13.8 percent in 2011 – just barely enough to qualify.

Because the state's approval expires every June 30, Stamper reapplied. But last year the same mix of census tracts wouldn't have qualified since its overall jobless rate was too low.

Last July, the state began letting EB-5 promoters use smaller census block groups, after urban developers complained it was too difficult to find individual census tracts, or a combination of them, that met the federal requirement for high unemployment.

So Stamper focused the targeted area on downtown Seattle, pinpointing two census block groups. With just 1,150 residents in the labor force, some in homeless shelters, they had a 12.5 percent overall unemployment rate, enough to qualify as a targeted area.

"It's a couple blocks from one of the most depressed areas" in downtown, Daniels said about Fifth & Columbia. "It's dead on."

Is it gerrymandering?

Other local EB-5 developers are taking advantage of the program's targeted-area loophole to build projects in job-rich areas.

One of them is Tukwila's Washington Place, a 19-story hotel and apartment tower that's just a block from Westfield Southcenter, the largest indoor shopping mall in the Pacific Northwest. There are about a dozen hotels nearby, but the last one was built almost 20 years ago.

Developers Omar and Christine Lee say they've recruited 132 investors from China, India, Vietnam and the Philippines to pony up $500,000 each for the $120 million project at the former Circuit City site.

The project's targeted employment area consists of seven census block groups and has an average jobless rate of 14.3 percent, according to an approval letter from the state obtained by The Seattle Times.

The block group where the high-rise will be built has an unemployment rate of zero because it's in a bustling commercial area with no residents.

But the targeted area includes block groups in Bryn-Mawr Skyway, an unincorporated area about 4 miles north where unemployment ranges as high as 20.1 percent. Those neighborhoods boost the average for the targeted area enough to meet the federal program's requirement.

Similarly, the 40-story Potala Tower in Seattle's Belltown neighborhood is in a census tract with a 2013 unemployment rate of 4 percent, state figures show.

But in 2013, state lawmakers were shown a targeted area drawn up by Dargey's firm.

The targeted area was irregularly shaped, with census tracts that extended down through Rainier Valley, looped around to High Point in West Seattle and touched parts of the Central Area and the University District — all relatively high unemployment areas. Together, lawmakers were told, the linked tracts had an average jobless rate in 2009 of 14.1 percent.

States vary in how much cherry-picking they allow.

Robert Haglund, the administrator of EB-5 targeted area approvals for Washington's Employment Security Department, said the state had the discretion under U.S. Citizenship and

Immigration Services guidelines to let EB-5 promoters use the small census block groups. Oregon takes the same approach, he said.

California requires using the larger census tracts; developers can string together no more than 12.

Texas, at the other extreme, has delegated the decisions to city mayors and county judges, who may rely on the industry to tell them what's appropriate.

"It's whatever anyone will sign off on," said Paul Scheuren, an economist at industry consultant Impact DataSource in Austin, Tex.

At the Tukwila project's groundbreaking in September, developer Christine Lee said the project would create 1,600 direct and indirect jobs. Gary Locke, former Washington governor and U.S. ambassador to China, added star power to the event.

"We're celebrating economic development," Locke said. "It's about jobs, hundreds and hundreds of jobs, good-paying jobs for the community."

But under the law, Lee's investors can take credit for a statistical estimate of jobs created indirectly — even a truck driver hauling carpet across the country to the hotel site.

Before 2012, the federal government let EB-5 investors even count the employees of a building project's tenants to meet the job-creation requirement, said Weber, the immigration attorney. Once that was reined in, EB-5 developers shifted from office projects to hotels, Weber said.

EB-5 in inner city

Some developers across the nation are using EB-5 capital to infuse vitality into long-neglected neighborhoods, as the law was intended to do.

In 2012, a Dallas developer opened the first full-service hotel to be built in South Dallas since 1946, according to the Boston nonprofit Initiative for a Competitive Inner City. The project was built in the Cedars neighborhood, which has a 40 percent poverty rate and high unemployment.

A public-private partnership between the city and an asset-management firmfunded it with $5.5 million from 11 EB-5 investors.

Under an agreement with the city, at least three-quarters of the hotel jobs were offered first to local, low-income residents in Dallas.

And the hotel operator, NYLO Hotels, gives staff 80 hours of training.

To gauge the project's impact, the city is tracking many indicators, including jobless rates, per capita income and crime rates.

That's far more data than the federal immigration agency collects on EB-5 projects.

EB-5 “is a pretty blunt instrument now,” said Kim Zeuli, research director at the Initiative for a Competitive Inner City.

The federal program should be revamped “to support projects that would not have been funded otherwise, especially in parts of the country that need it most,” she wrote recently in a journal published by the Federal Reserve Bank of Boston.

Mary Trimarco, an assistant director in the state Commerce Department, said there are no similar public-private partnerships in Washington state to use EB-5 money for high-priority needs.

Her department has no say in defining or approving the EB-5 areas in the state, and she wishes the federal program was refocused away from commercial projects that could find other financing.

“If you use a little imagination, there are a lot of things that could be done with EB-5,” she said, listing affordable housing, college dormitories and research parks.

Lance Matteson, executive director of the nonprofit SouthEast Effective Development, a community-development corporation focused on Seattle’s Rainier Valley, said the area badly needs jobs, but to date there have been no EB-5-funded projects built in Southeast Seattle.

“We’re supportive of this as a tool,” he said. “Ironically this is the most international part of Seattle, but it’s least benefited from this tool.”

Another chance

With key provisions of the EB-5 program to expire in September, three senior Republican senators have asked for a review by the Government Accountability Office (GAO), an independent watchdog for Congress.

A GAO spokesman says the review will examine, among other things, whether estimates of the program’s economic benefits “are valid and reliable.”

Stamper, the EB-5 investment broker, said he favors a more uniform way to define the areas to which investors’ funds are steered.

At present, he said, “Each state is able to come up with pretty much whatever they want.”

The state Commerce Department’s Trimarco is also ready to see some changes.

“Why isn’t it structured in a way where you could do more to drive jobs and investment, versus a Hilton Garden or Holiday Inn Express?” she asked. “We’d love to figure out a way to harness it.”

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THE WALL STREET JOURNAL.

http://www.wsj.com/articles/how-immigrants-cash-funds-luxury-towers-in-the-u-s-1441848965

U.S.

How a U.S. Visa-for-Cash Plan Funds Luxury Apartment Buildings

Program meant to spur jobs in poor areas largely finances developments in affluent neighborhoods

New York's Hudson Yards project, to be largely above a rail site, is partly financed by a program giving foreigners residence for U.S. investment. *PHOTO: TIMOTHY FADEK FOR THE WALL STREET JOURNAL*

By **ELIOT BROWN**

Updated Sept. 9, 2015 10:38 p.m. ET

NEW YORK—The cluster of luxury apartment buildings and office towers rising in a development west of midtown called Hudson Yards seems a world apart from the low-income housing projects of upper Manhattan.

But for purposes of an immigration program that helps finance Hudson Yards, it and Harlem's Manhattanville public-housing towers are in the same district: a stringy one connected by three Census tracts that run along the Hudson River.

Merging, on paper, the affluent midtown neighborhood and the struggling one uptown placed Hudson Yards in a community with an overall high unemployment rate, positioning developer Related Cos. to gain low-cost financing from foreigners seeking green cards.

READ MORE

- 5 Things to Know About EB-5 Real-Estate Finance (http://blogs.wsj.com/briefly/2015/09/09/5-things-to-know-about-eb-5-real-estate-finance)
- Is Hudson Yards In the 'National Interest'? (http://blogs.wsj.com/moneybeat/2015/09/10/is-hudson-yards-in-the-national-interest/)

The program through which that happens, known as EB-5, enables foreign nationals to obtain U.S. permanent-resident status by putting up money for new business ventures that create American jobs. It gives ventures in high-unemployment and rural areas a special status to encourage investment. But as the program's popularity has soared in recent years, the bulk of immigrant investment is going to projects that are located, like $20 billion Hudson Yards, in prosperous urban neighborhoods.

On Sept. 30, a key piece of the EB-5 program is expiring. As Congress prepares to take up reauthorization, some lawmakers are questioning the way the program is being used, and a fight is brewing.

"The incentives Congress created to direct EB-5 investment to rural areas and urban areas plagued by high unemployment have been abused," said Sen. Patrick Leahy (D., Vt.), co-sponsor of a reauthorization bill that would prevent projects in affluent urban neighborhoods from getting high-jobless-area benefits.

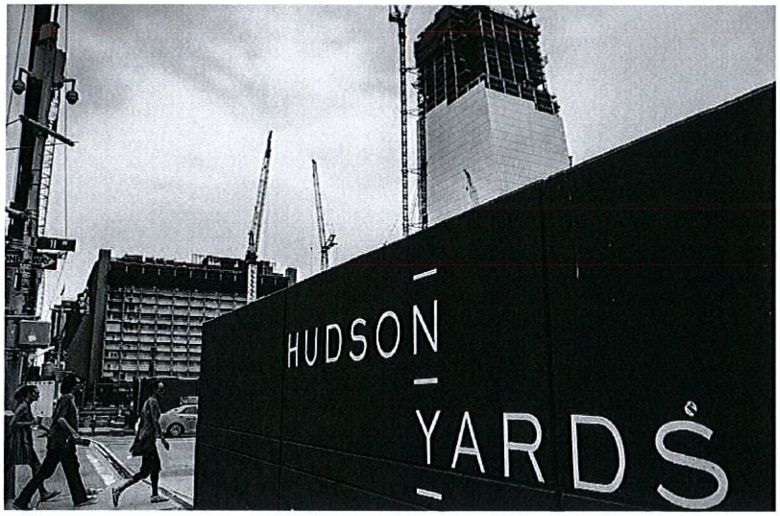
Echoing this sentiment, U.S. Homeland Security Secretary Jeh Johnson has proposed steps "to prevent gerrymandering" designed to portray projects as being inside high-unemployment districts, Mr. Johnson wrote in an April letter to Mr. Leahy and Senate co-sponsor Charles Grassley (R., Iowa).

A primary concern is that the use of EB-5 financing for high-price condo and office towers sops up the program's capacity and leaves poorer communities out in the cold. No more than 10,000 visas that lead to permanent-resident status can be given out each year under the program. It hit the limit in the fiscal year ended Sept. 30, 2014.

Though statistics aren't made public on individual projects, a recent paper by two New York University professors tracked 25 large business startups that have turned to the EB-5 program to raise a total of more than $4.5 billion in financing.

Hudson Yards Rises With Link to Housing Project »

Manhattan's Hudson Yards real-estate development is rising thanks in part to the EB-5 immigrant investor program.



1 of 6

Twenty-two were urban real-estate projects, including 14 in prime Manhattan neighborhoods and others in Seattle and on the Las Vegas Strip.

Related, the Hudson Yards developer, said that it follows all federal and state rules and that the project's impact isn't limited to Manhattan's west side.

The EB-5 money "allowed us to immediately create thousands of jobs all over the city offering tangible regional economic benefits and direct benefits to areas of high unemployment," said a spokeswoman for Related. Hudson Yards "unequivocally would not be as far along as it is today without this capital," she said.

Related is the single largest user of EB-5 financing. By its own measure, it accounts for about 20% of the dollars being raised through the program today. The closely held company used the program to raise $600 million for a first phase of Hudson Yards last year and is in the process of raising another $600 million for a new office tower and a retail hub.

Crafting a neighborhood

Key to doing so is having the surrounding community designated a Targeted Employment Area, meaning one where the jobless rate is at least 150% of the national average. That status lets foreign investors move toward a U.S. green card by putting up $500,000, typically as a loan. If the project isn't in a Targeted Employment or rural area, the foreign investors have to pony up $1 million, a level that greatly reduces participation.

The neighborhood immediately around Hudson Yards includes Manhattan's tony West Chelsea. Unemployment in the local Census tract was just 4.9% in 2012—below the national rate—according to a letter sent in May 2013 from a New York state labor official to Empire State Development Corp., a state economic-development agency.

"The current minimum threshold to qualify as a Targeted Employment Area is 12.2%," said the 2013 letter, obtained under the Freedom of Information Act. "For your consideration, we developed an alternative area."

State labor officials added four additional Census tracts—three along the banks of the Hudson plus one that reaches into West Harlem. The unemployment rate of the combined five tracts, said the letter: 18.1%.

As this shows, it is state government that typically fashions districts to meet the EB-5 program's unemployment-rate test. Federal regulations permit this; they defer to states to draw the maps that define a project's geographic area, so long as Census tracts they lump into a single community are contiguous.

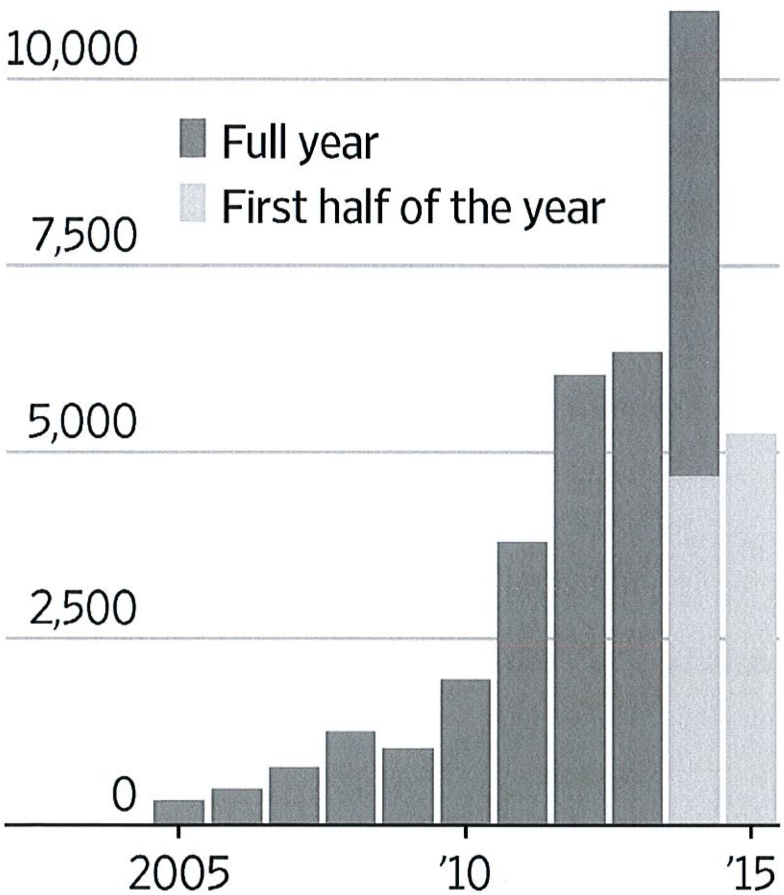
State governments—eager for economic development and with little stake in federal immigration policy—tend to side with developers who want their projects to qualify as easily as possible for financing.

Empire State Development, the state body that designated Hudson Yards as being in a high-unemployment area, defends the practice for this project and others, saying they spawn jobs and benefits for people all around a city and region. The EB-5 program "has been used to create tens of thousands of jobs for New Yorkers across the state," said a spokeswoman for the agency.

In Congress, developers' supporters reject criticism of how the immigration program is used to finance construction and applaud it as an economic development tool. "Jobs at no government cost is jobs at no government cost," said Rep. Mark Amodei, a Nevada Republican who is sponsoring reauthorization legislation that would mostly keep EB-5 as it is. He said he was open to changes to boost rural and poor areas but concerned about making the program too complex.

Wanting In

A program that lets foreigners gain residence by investing in the U.S. has seen applications jump.



Note: For fiscal years ending Sept. 30
Source: Department of Homeland Security
THE WALL STREET JOURNAL.

An advocacy group backed by developers called the EB-5 Investment Coalition is pushing to avoid changes that would curtail the program's use. Related, a member of the coalition, spent $330,000 on lobbying related to immigration policy during the second quarter, federal lobbying disclosures show.

The coming debate in Congress stands to bring the program its greatest scrutiny since it was created in 1990.

The idea was simple: An aspiring immigrant would help finance a new or expanded business in the U.S., especially in capital-starved areas. If the investment was determined to have created at least 10 jobs per investor, measured after two years, members of the foreign investor's family would be granted U.S. permanent-resident status. The investment could be at the lowest level—$500,000—if projects were in "areas that can use the job creation the most," a sponsor of the provision, the late Sen. Paul Simon (D., Ill.), said at the time.

For years, the program wasn't widely used. It accounted for only a few hundred immigrant visas annually, with money flowing to projects such as a ski slope in Vermont and small projects on closed military bases.

A change in 2009

Things began to change in 2009, amid two shifts. The agency overseeing the program—the U.S. Citizenship and Immigration Services unit of the Department of Homeland Security—let the job-creation tally count more construction jobs if they last at least two years. And banks all but shut off credit for construction projects amid the economic slump.

Real-estate developers discovered EB-5. Money from foreign investors, primarily Chinese, began to pour into major developments around the U.S., typically supplementing more-senior debt. A hotel and apartment project in Washington raised more than $40 million through the program. A W hotel in Hollywood raised $20 million. A planned 16-tower apartment project connected to Brooklyn's Barclays Center basketball arena took in $229 million.

Today, the program is at peak popularity. In the fiscal year ended last September, 10,923 foreign investors applied, compared with 6,346 in the prior fiscal year and just 486 in 2006. The majority eventually get approved. China's recent financial turmoil may decrease future applications given that many have taken hits to their net worth, EB-5 professionals believe. Still, few expect any decrease to be dramatic.

Lenders have since returned to real estate, but developers are attracted by another aspect of EB-5 financing: low cost. Because the foreign investors are after a green card, they have been willing to accept very low interest rates on money they lend, typically for four or five years. Developers save even though they face other costs to use the program.

At 701 Seventh Avenue in Manhattan, a retail and hotel tower going up in Times Square, developers raised about $200 million through EB-5 at an annual interest cost that came to 6% after the middleman fees, said Michael Ashner, chief executive of Winthrop Realty Trust, a partner in the project. That compares with 11% or 12% they would have faced for junior loans through other financing, he said.

"It's lower-cost capital with favorable terms. That's why people do it," Mr. Ashner said.

Many of such projects could easily have been financed on the private market, according to Gary Friedland, who wrote the NYU paper with fellow professor Jeanne Calderon. "It's a profit enhancement," he said. "The original argument was more of a 'but for' argument," in which EB-5 was meant to spur projects that wouldn't otherwise have happened. "That focus has been lost."

At least 80% of EB-5 money is going to projects that wouldn't qualify as being in Targeted Employment Areas without "some form of gerrymandering," estimates Michael Gibson, managing director of USAdvisors.org, which evaluates projects for foreign investors.

Increasingly, the money appears to be flowing to the flashiest projects, which the investors often see as safest, EB-5 professionals say. Among those getting EB-5 money are an office building set to host Facebook Inc. near Amazon.com Inc.'s Seattle headquarters, a boutique hotel in high-end Miami Beach, and a slim Four Seasons condo-hotel in lower Manhattan that sports a penthouse with an asking price above $60 million. In all of them, geographic districts were crafted to include higher-unemployment areas.

Some left out

Meanwhile, some wanting to raise money for projects in rural areas and low-income parts of cities say they find it increasingly hard to compete. Evan Daniels has been trying for four years to raise about $40 million through the EB-5 program for a door-manufacturing plant in the rural southwestern Missouri town of Lamar.

"The harder we worked on this, the more we found the money was going to L.A. and New York," he said.

Joseph Walsh, a consultant who discussed the issue with Mr. Daniels, said finding foreign investors for rural manufacturing projects in the U.S. was a hard lift, particularly with competition from urban areas. Mr. Walsh said he was frustrated by developments he views as misusing the EB-5 law. "We should be using this money in projects that couldn't be financed" otherwise, he said.

Related, the Hudson Yards developer, was founded by Miami Dolphins owner Stephen Ross as an affordable-housing-focused builder but is known for large-scale commercial projects in cities that include San Francisco, Los Angeles and Chicago. Hudson Yards, believed to be the largest private development under way in the U.S., includes a tower around the height of the Empire State Building.

Related decided to plunge into EB-5 financing in 2013 after seeing other developers do so.

In the usual working of the program, brokers recruit foreign investors, and then regional centers bundle their investments. Related, however, set up its own infrastructure to bundle investments. It also formed an exclusive relationship with a Chinese brokerage firm.

The company and its brokers have held a steady stream of events in China for potential EB-5 investors, ranging from a gala featuring a Chinese television personality and flamboyantly dressed dancers to more mundane PowerPoint presentations. Related Chief Executive Jeff Blau said in April that about 300 people were finding investors for the company in China, Vietnam and Korea.

In China, one pitch is speed in obtaining green-card approvals from U.S. Citizenship and Immigration Services. Related's main broker has advertised that EB-5 investors receive initial approvals 11 months faster than the standard wait. That would mark a big advantage, because the average wait is about 14 months.

It is unclear how its applications would be processed so quickly. USCIS declined to comment on Related's applications.

—Esther Fung contributed to this article.

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Statement for the Record
AFL-CIO
Provided to the
House Judiciary Committee
United States House of Representatives
concerning
The Investor Visa Program
February 11, 2016

On behalf of the members and unions of the AFL-CIO, we write to raise serious concerns regarding the EB-5 Regional Center Program. If this deeply flawed immigration policy providing a pathway to citizenship for the world's wealthy is going to be justified on the basis of job creation, then we expect the program to create real jobs—and good jobs. The labor movement will not support long-term reauthorization unless we see significant reforms that instill some degree of integrity in the program.

Far too little data is available to allow us to assess the trends and impact of the EB-5 program in a comprehensive way. Media reports of fraud and misuse are troubling—and what we do not know about the real impact on jobs, wages, and standards is unacceptable. Simply put, the program has operated without effective oversight for entirely too long.

Our affiliates are tracking the surge in development projects that make liberal use of cheap EB-5 financing, and their experience with the developers and contractors working on those projects has been decidedly mixed. While some are adhering to local labor standards and are giving workers a voice on the job, others are actively undercutting living and prevailing wage standards and are blocking efforts to empower workers. Given how lucrative the low-interest EB-5 financing is for developers, the program effectively serves as a significant corporate subsidy. As such, developers who benefit from this subsidy must be required to adhere to high labor and employment standards, and the public should have access to more information regarding the implementation and results of this government-backed financing program.

If Congress extends the EB-5 Regional Center Program, the labor movement's overarching priority is to ensure that it creates a large number of *quality* jobs. We believe reauthorizing legislation must include three fundamental reforms:

- **Enhanced Data Collection.** Reauthorization should include enhanced data collection to ensure accurate measurement of the true economic impact of the program, including the number of jobs created—and the quality and duration of those jobs. Readily available public access to accurate and timely information regarding regional center designations and specific EB-5 financed projects would help bolster efforts to combat fraud and ensure that EB-5 financing is not misused by low-road employers. This data would also shed light on whether the program is meeting its mandates—to spur growth and create jobs in underserved areas.

- **Local Involvement.** In order to improve the integrity and outcomes of the program, local authorities must have a meaningful role in evaluating and approving EB-5 projects. Currently, the law allows for a state-level voice in designating targeted employment areas for EB-5 development. It is our simple assertion that the review of specific projects within those targeted employment areas must also be localized. Legislation should require regional centers to coordinate with regional and local authorities before initiation of a project to ensure that it meets the economic development needs of the community—and that it complies with local and industry labor standards. It is essential to prevent these projects from driving down wages and working conditions in communities deemed to be in greatest need of economic stimulus and workforce development. Local involvement will help ensure the project is beneficial to the community and will provide crucial oversight, such as identifying contractors who have been debarred for labor violations and preventing them from receiving EB-5 funds.

- **Apprenticeship Utilization Standard.** In an effort to guarantee an investment in workforce development, regional centers should be required to implement an apprenticeship utilization standard to ensure that jobs created as a result of EB-5 investments lead to the strongest economic impact employers can make through training opportunities.

As Congress continues to examine EB-5 reforms, our unions stand ready to provide insight and expertise on the job-quality realities of regional center projects in different industries and locations. The recent GAO report[1] provides clear evidence of the need for improved regulation and oversight of this program that has substantially boosted profits for developers around the country. Now it is the obligation of lawmakers to ensure that the other intended beneficiaries of this program—working people—are also getting a boost.

We urge you to support reforms that will bring greater transparency to this troubled program, invest in quality job creation and workforce training, and empower local authorities to insist on high standards for federally-subsidized projects undertaken in their communities.

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[1] Government Accountability Office Report, "Immigrant Investor Program: Additional Actions Needed to Better Assess Fraud Risks and Report Economic Benefits." (August 12, 2015), http://www.gao.gov/products/GAO-15-696.