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February 14, 2017

Dear Members of the New York Congressional Delegation:

We write to urge you to oppose any further renewal of the EB-5 Visa Program. This program is currently slated to expire on April 28, 2017, and we have major concerns about the impacts on New York from abuses of program rules, the potential for conflicts of interest given the business dealings of the incoming administration, and a lack of accountability regarding job creation goals.

The incoming Trump administration has proposed punitive attacks on vulnerable immigrant groups, but has signaled support for the scandal tarred EB-5 program which benefits only the extremely wealthy. This is particularly disturbing given the history of this program in providing a route into the United States to individuals charged with serious crimes. A 2015 ABC news investigation of the program found that EB-5 visas were approved for “immigrants suspected of having committed fraud, money laundering, and even one applicant with alleged ties to a child porn website.” According to findings reported at a US Senate Hearing in March 2016, EB-5 has been the subject of increasing scrutiny since investigators uncovered numerous cases of fraud, discovered individuals with possible ties to Chinese and Iranian intelligence using fake documents and learned that international fugitives who have laundered money had infiltrated the program. A Government Accountability Office report released in August found that the agency could not be sure that money used for the visas was not coming from “the drug trade, human trafficking or other criminal activities.”

Given that past Trump projects have made use of the program, it is perhaps not surprising to find this support, but it also creates serious potential conflicts of interest for the new administration. According to Bloomberg News, EB5 funds are being used for the project “Trump Bay Street”, a 50 story luxury rental building adjoining an existing high rise condo, Trump Plaza Residence, with sweeping views across the Hudson River to lower Manhattan. We are deeply concerned that the visa approval process will be further corrupted to meet future needs of the Trump Organization and other Trump family ventures.

Our concerns with the EB-5 program predate the incoming administration, as the program has long been criticized for failing to meet its state goals. One of the major criticisms of the EB-5

program has been the misapplication of investments that are supposed to be targeted to rural areas and underserved communities with high unemployment. The amount that program participants have to invest is lowered from \$1 million to \$500,000 if the investment is made in a Targeted Employment Area (TEA), which includes rural areas and areas with an unemployment rate at least 150 percent of the national average.

An October 2016 GAO report which looked at the EB-5 program over a three-month period in 2015, found that only 12% of investment went toward projects located in a census tract with an unemployment rate of at least 8%, even though those projects benefited from the TEA provision. A large chunk—36%—were for projects located in a census tract with an unemployment rate of 4% or lower and just 3% were for projects in rural areas, the report found.

This pattern has been particularly problematic in New York City, where TEAs have been gerrymandered to allow EB-5 investments in some of the most expensive real estate in the country. According to the *New York Times*, among the projects that have been funded through this program are the International Gem Tower in midtown Manhattan, the Battery Maritime building near Wall Street and the Atlantic Yards project in Brooklyn. The Hudson Yards project has also received funding from EB-5 investors. Multiple press reports have indicated that wealthy developers are pushing hard for extension of this program so that they can continue to use it to finance luxury development. We have concerns that the politicized nature of the creation of targeted zones completely undermine the stated purposes of the program.

In addition, by diverting potential investment into high-cost projects, there is a potential for these investments to drive up land costs in some areas, making it even harder to pay for construction of desperately needed affordable housing, and these luxury projects also can involve displacement of low and moderate income residents in the impacted neighborhoods.

New York's experience is mirrored elsewhere. The *Seattle Times* reports similar abuses in the use of EB-5 financing in downtown Seattle, the fastest growing city in the country. *Fortune Magazine* reports that luxury areas in the Los Angeles region such as Marina Del Rey have been included in TEAs and have projects that have taken advantage of EB-5 investment.

The whole concept of TEAs is problematic in an urban context, according to a February 2014 Brookings Institution study of the program entitled "Improving the EB-5 Investor Visa Program." Because TEAs in such areas are either defined by census tract or county, which may be part of a larger labor market, there is no necessary connection between the job creation goals and targeting communities within that urban area that are experiencing high unemployment. As the Brookings Report puts it "the unemployment measure of TEAs can lose meaning when applied to the metropolitan context, especially when one considers that investment projects are not required to hire residents from within the TEA."

Another problem with the program is that there has been little effort to establish whether the program is meeting its goals. In theory, each \$500,000 investment must create at least 10 jobs, but according to the Brookings Report "the stated goal of the EB-5 program is to stimulate local economic development but there are scant data available to measure its impact, especially at the local level. There are no comprehensive, longitudinal data regarding regional centers' economic

impact on project completion rates, job creation levels, and other regional- and municipal-level economic indicators such as change in unemployment rates.”

While we agree that finding ways to encourage economic development areas with high unemployment is a worthy goal, as currently constructed the EB-5 visa program does not serve that goal. Instead, in many cases it constitutes a giveaway to foreign investors, many of whom have questionable backgrounds that directs money into highly profitable luxury projects that would not have trouble raising money without the program. We therefore urge you to oppose any further extensions of the EB-5 program.

Thank you for your attention to this matter.

Sincerely,



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