

## Many rejections for tourist visas

### LEGAL RIGHTS



ATTY. JOHNSON LAZARO

AS always, it is hot and humid here in Manila. Our staff interviewed many tourist applicants standing in line. Many are excited to get the chance to persuade the consuls to let them visit the States. The crowd waited patiently under the extreme heat of the Philippine sun. The line started to form about 6 AM along Roxas Blvd. At around 11:30 am the guards finally started turning people away. The line stretched about 75 yards.

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*“Most of the people know how difficult it is to obtain a non-immigrant visa to go to the US. However, they seem to be determined to go abroad.”*

However, they seem to be determined to go abroad. Unemployment continues to plague these little islands in the Pacific. People in Manila seemed to be walking and driving continuously with no destination. One may assume that they are looking for jobs. For some, if you can't find a job here, look elsewhere. The US is a prime destination.

Obtaining a tourist visa has always been difficult. Most applicants are interviewed in person. Children under 14 and seniors over 80 years old may be exempted from this requirement. Parents or guardians of children under 14 may be required to attend. Preparation of key supporting documents is often the key to visa approval. All applicants, regardless of age, must complete Form DS-156 (online version only and must be completed online) and Form DS-157. Officers would always inspect the authenticity of every document. Applicants are encouraged to bring originals whenever possible. Be careful about submitting fake docu-

ments as the consuls are trained to detect document fraud.

However, don't apply for a tourist visa if you are looking to work in the US. Apply for a work visa instead. The problem here is that you have to be qualified to work in the US and you must have an employer in the waiting. Applying for a tourist visa with the intent to remain in the US to work can be dangerous. If you are caught doing this, you can be forcibly removed from the US and barred from coming back.

There is no sure way of getting a tourist visa approved. Even a seasoned immigration attorney will be not be able to guarantee success. However there are a few key points that the consul looks for in approving a tourist visa. For those who just want to visit, be clear on your itinerary and the purpose of the visit. If you're coming for a medical treatment in the US the consul will closely assess your medical situation. The financial capability of the applicant will also be

scrutinized. With a few exceptions, a visitor is not allowed to go to school in the US. If it is likely that you'll study in the US you may obtain an advanced permission from the consul.

As we completed our visit in the Embassy in Manila. It was obvious that the consuls were handing out multiple denials. The long faces were everywhere. The warm smiles that greeted the Embassy guards in the morning evaporated as people left in despair. Many were hungry after a day standing in line. However, the guard assured me that tomorrow, the lines will be even longer.

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(Advertising Supplement)

### HOMEOWNERS' HIGHLIGHTS



ATTY. CRISPIN LOZANO

THE number of foreclosure filings for the third quarter ending September 30, 2009 jumped 5% from the second quarter of the year and an increase of 23% compared to the third quarter of year 2008. So far for the year 2009, 623,852 homes that have been taken back by the lenders. This foreclosure rate is the worst of all time.

The reasons for the increase in delinquencies are (1) more option Adjustable Rate Mortgages (ARM) are resetting to higher rates triggering defaults and (2) more prime fixed-rate loans are defaulting due to job losses.

*Question: What does the statistics suggest to borrowers?*

Answer: The statistics show that the bank are very picky on what loans to modify. The main reason is that the staff in the Loss Mitigation Department of the bank are so busy that they have

## Foreclosures hit record high in third quarter of 2009

insufficient time to analyze the individual borrower's case. There is huge number of applicants but the bank's staff are insufficient to serve them effectively. Many of my clients tried to do the loan modification themselves but they were unsuccessful. Many of them came from HUD counseling but were unsuccessful in modifying their loans.

*Question: What types of loan can be modified under the Obama program?*

Answer: The Obama Loan Modification Program will modify loans that are secured through Fannie Mae and Freddie Mac. FHA loans have their own program of loan modification. Most mortgages are guaranteed by Fannie Mae, Freddie Mac and FHA. If you have any concerns whether your loan can be modified you may contact your lender or a loan modification attorney.

*Question: Can a homeowner apply for loan modification while in bankruptcy proceedings?*

Answer: Yes. However, it is better to apply for loan modification before filing bankruptcy because you have a better chance of

getting better terms in modifying your loan.

*Question: May a borrower request loan modification while in foreclosure?*

Answer: Yes. A foreclosure process starts when you receive a Notice of Default (NOD) registered with the county recorder's office. It ends when the property is sold in a public auction at a Trustee Sale. Upon receipt of the NOD you should immediately contact an attorney to do a loan modification. It is important to do this immediately because the Loss Mitigation Department of the bank is very busy and it will take sometime before they finally look at your case. In the NOD you are given 90 days to come up with the payment for all missed payments. If you cannot come up with the payments within 90 days, the lender will send you a Notice of Trustee Sale and will publish the property for sale at a public auction within the succeeding 20 days. After the 20 days of publication and no loan modification is agreed upon, the property will be sold to the highest bidder in a public auction.

*Question: What should homeowners do to avoid situations when a Notice of Default is forthcoming?*

Answer: Homeowners should consult with a loan modification attorney to protect their rights and save their homes. The banks are very slow in responding to loan modification requests. Time is of the essence so you should act immediately before you run out of time. Beware of loan modification scams that promise you results that are too good to be true. Your home is your most important property that you have to keep.

Note: This is not a legal advice. You need to talk to an attorney about your specific case. Our office offer FREE initial consultation on Loan Modification only.

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### THE CTV FILES



ATTY. DENNIS E. CHUA, ESQ.

A LAW that was enacted in 2006 may affect immigrant petitions filed by US citizens or lawful permanent residents on behalf of their spouses or relatives. This law otherwise known as the Adam Walsh Child Protection and Safety Act was enacted to protect children from sexual exploitation and violent crimes, to prevent child abuse and child pornography, and to promote Internet safety.

Although the law seeks to protect minors, the law contains provisions which would even affect spouses of US citizens and lawful permanent residents. This law specifically prohibits US Citizens and Lawful Permanent Residents who have been convicted of any "specified offense against a minor" from filing a family-based visa on behalf of any beneficiary. The law further enumerates the types of of-

## Conviction of US spouse may affect immigrant petition

fenses which may fall under the term "specified offense against a minor", and these include the following:

- An offense (unless committed by a parent or guardian) involving kidnapping.
- An offense (unless committed by a parent or guardian) involving false imprisonment.
- Solicitation to engage in sexual conduct.
- Use in a sexual performance.
- Solicitation to practice prostitution.
- Video voyeurism as described in section 1801 of title 18, United States Code.
- Possession, production or distribution of child pornography.
- Criminal sexual conduct involving a minor or the use of the Internet to facilitate or attempt such conduct.
- Any conduct that by its nature is a sex offense against a minor.

The US Citizenship and Immigration Services (USCIS) has made a very broad interpretation as to what constitutes an "offense committed against a minor" such that even a misdemeanor case for indecent exposure may have dire consequences on an immigrant

petition filed by the US citizen or lawful permanent resident relative. The USCIS has now been conducting background checks on US citizen and lawful permanent resident petitioners before adjudicating the petitions filed by these petitioners and if the petition has been approved, the USCIS will revoke the approved immigrant petition.

To illustrate—Sometime in 1982, John was evicted from his apartment. Jobless and homeless, John was forced to sleep in his car. One morning while his car was parked outside a shopping mall, John decided to change his clothes inside his car. Bystanders saw him changing and reported him to the police. Police arrested him and charged him with committing a lewd or obscene conduct in a public place. Since he had no money to retain the services of a lawyer, he pleaded guilty to a misdemeanor violation of indecent exposure. In 2005, he met Gilda who entered the United States as a visitor in 2003. Their friendship later developed into an amorous relationship. Out of their relationship they had two children. John eventually filed an immigrant petition for Gilda who concurrently

filed an application for adjustment of status with the USCIS. The USCIS issued a Notice of Intent to Deny on the immigrant petition filed by John for Gilda.

In order for a petitioner to overcome any Notice of Intent to Deny or Revoke issued by the USCIS, the petitioner must show that the offense committed was not a "specified offense against a Minor Under the Adam Walsh Act." Alternatively, the petitioner can show that the petitioner poses no risk to the safety or well-being of the beneficiary, which includes the principal beneficiary and any derivative beneficiaries.

Atty. Dennis E. Chua is a partner in The Law Firm of Chua Tinsay and Vega (CTV), a full service law firm with offices in San Francisco, San Diego and Manila. The information presented in this article is for general information only and is not, nor intended to be, formal legal advice nor the formation of an attorney-client relationship. Call or e-mail CTV for an in-person or phone consultation to discuss your particular situation and/or how their services may be retained at (415) 495-8088; (619) 955-6277; Dchua@ctvatys.com. The CTV Attorneys will be at Max's Restaurant in Vallejo on October 19, 2009 from 5pm to 7pm to hold a FREE legal clinic. (Advertising Supplement)

# Reach out a helping hand...

for the immediate relief efforts in the wake of Typhoon Ondoy that hit the Philippines recently.

Please donate generously. Your donations will help purchase relief supplies and ration packs for distribution to heavily damaged areas with the help of local officials and volunteers.

#### Guidelines:

- Donations can be received online via credit card or Paypal through [www.abscbnfoundation.org](http://www.abscbnfoundation.org) or [ondoyrelief.multiply.com](http://ondoyrelief.multiply.com)
- Mail checks payable to: **ABS CBN Foundation - Sagip 150 Shoreline Drive Redwood City, CA 94065**
- Pledges and inquiries can be made through the toll free number **1-800-527-2820**



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- Benefit for Sagip Kapamilya
- Oct. 18 - Seattle WA**  
Fund raising at the Filipino Community in Seattle featuring Massive Monkees and Blue Scholars
- Oct. 18 - Vallejo, CA**  
Brunch Fundraiser  
at the Filipino Community Center
- Oct. 24 - Redwood City, CA**  
"TINIG NG PINOY: Mas Malakas kay Ondoy"  
- Fundraiser by ABS-CBN International employees
- Oct. 30 - Berkley CA**  
Filipina Women's Network  
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- Nov. 13-15 - Las Vegas, NV**  
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