



U.S. Citizenship  
and Immigration  
Services

L2



FILE:



Office: Los Angeles

Date:

IN RE:

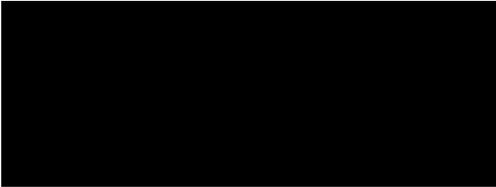
Applicant:



ADJUDICATED

PETITION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

PHOTOCOPY

prevent the unauthorized  
invasion of personal privacy

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, counsel submits additional evidence in support of the applicant's claim to continuous residence in the U.S. since 1981. In addition, counsel asserts that the applicant is unable to submit further evidence of residence since much of the supporting documentation he might have been able to provide has probably been mislaid or discarded over the last 20 years.

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a *preponderance of the evidence* that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is *probably* true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989). Preponderance of the evidence has also been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5<sup>th</sup> ed. 1979).

The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished the following evidence:

- a photocopied a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which was signed by the applicant on March 7, 1990;
- a photocopy of a California Identification Card in the applicant's name, which is dated May 11, 1981 and carries a 1986 expiration date;
- A form affidavit from [REDACTED] who attests to the applicant having resided in Fullerton, California, from May 1981 to April 1982, and in Stanton, California since April 1982. The affiant bases his knowledge on having been good friends with the applicant since 1986;
- A form affidavit from [REDACTED] who attests to the applicant having resided in Fullerton, California from May 1981 to April 1982, and in Stanton, California since April 1982. The affiant bases her knowledge on having been the applicant's landlord in 1981 and having been friends with him since that time;

- A form affidavit from [REDACTED] who attests to the applicant having resided in Fullerton, California from May 1981 to April 1982, and in Stanton, California since April 1982. The affiant bases his knowledge on having met the applicant in May 1981 when both were employed as landscapers;
- A form affidavit from [REDACTED] who attests to the applicant having resided in Stanton, California since February 1983. The affiant bases her knowledge on having been friends with the applicant since he rented a room in her house at [REDACTED] California; and
- A form affidavit from [REDACTED] who attests to the applicant having resided in Fullerton, California from May 1981 to April 1982, and in Stanton, California since April 1982.

The regulations at 8 C.F.R. § 245a.2(d) provide a list of documents that may establish residence and specify that "any other relevant document" may be submitted. In this case, the applicant has submitted at least five affidavits attesting to his residence in the U.S. during the period in question. The director has not established that the information included in the affidavits was inconsistent with the claims made on the application, or that it was of a false or contradictory nature. In addition, the applicant has provided contemporaneous evidence in the form of a photocopy of a California Identification Card in his name, which is dated May 11, 1981 and carries a 1986 expiration date. On appeal, the applicant's attorney asserts that the applicant is unable to submit further evidence of residence since much of the supporting documentation he might have been able to provide has probably been mislaid or discarded over the last 20 years. Under these circumstances, the applicant's inability to submit additional affidavits or contemporaneous documentation of residence is not found unduly implausible.

The evidence provided by the applicant supports, by a preponderance of the evidence, that the applicant satisfies the statutory and regulatory criteria of entry into the United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

**ORDER:** The appeal is sustained.