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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: Los Angeles

Date: DEC 22 2004

IN RE: Applicant: [REDACTED]

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: Self-represented

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

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, California, 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 she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that she has submitted sufficient evidence to support her claim of continuous residence in this country since prior to January 1, 1982. The applicant provides photocopies of new and previously submitted documentation in support of her appeal.

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).

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).

Although the regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on December 27, 1989. At part #33 of the application, where applicants were asked to list all residences in the United States since the date of first entry, the applicant indicated that she he had lived at an address in Los Angeles, California from July 1981 to 1988, and then an address in Canoga Park, California from July 1988 to December 27, 1989, the date the Form I-687 application was submitted. In support of her claim of continuous residence in the United States since before January 1, 1982, the applicant submitted two affidavits of residence, an employment letter, photocopies registered mail receipts, and photocopies of two receipts from unidentifiable retail stores.

The record shows that the applicant submitted her Form I-485 LIFE Act application on January 4, 2002. In support of her claim of continuous unlawful residence since before January 1, 1982, the applicant included the

following new documentation: a photocopy of a United States Postal Service money order and photocopies of three postmarked envelopes.

In the notice of intent to deny issued on August 12, 2003, the district director questioned the veracity of the applicant's claimed residence in the United States. Specifically, the district director stated that the applicant testified that she first entered the United States in September 1981 during her LIFE Act application interview on October 16, 2002, and that such testimony was inconsistent with a prior attestation made by her employer, who stated that the applicant began employment in July 1981 in the previously referenced employment letter that was initially submitted with her Form I-687 application. However, testimony that the applicant gave at her interview of October 16, 2002 was provided to describe events that occurred over twenty-one years ago, a significant and considerable period of time. Furthermore, an examination of the Form I-687 application reveals that the applicant indicated that she began residing in this country in July 1981 at part #33 of the application, where applicants were asked to list all residences in the United States since the date of first entry.

In addition, the district director declared that the testimony contained in the two affidavits of residence that had been included with the Form I-687 application indicated that the applicant had resided and worked in Canoga Park, California from 1981 to December 21, 1989, the date the affidavits were executed. The district director concluded that this information was inconsistent with contemporaneous evidence provided by the applicant that listed an address in Los Angeles, California as her residence. However, the two affidavits of residence cited by the director make no reference whatsoever regarding any location where the applicant may have worked during the requisite period. Furthermore, it must be noted that Canoga Park is in Los Angeles County, California and is generally considered to be a part of the greater Los Angeles metropolitan area. Moreover, it is reasonable to conclude that both affiants indicated that the applicant resided in Canoga Park, California because that was the location of her current residence on the date the affidavits were executed. Regardless, the essence of both of the affiants' testimony is that the applicant continuously resided in this country since 1981. Consequently, the inconsistencies cited by the district director cannot be considered as fatal to the applicant's claim of continuous residence in the United States from prior to January 1, 1982 to May 4, 1988.

It must be further noted that the applicant has subsequently submitted additional new contemporaneous documents, including photocopies of postmarked envelopes, money order receipts, and retail store receipts both in her response to the notice of intent to deny and on appeal.

In this instance, the applicant submitted evidence, including affidavits, an employment letter, and contemporaneous documents, which tends to corroborate her claim of residence in the United States during the requisite period. The district director has not sufficiently established that the information in this evidence was inconsistent with the claims made on the application, or that it was false information. As stated on *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

The documentation 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.