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**U.S. Citizenship  
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FILE: 

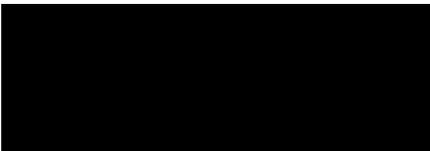
Office: Los Angeles

Date: 11/19 02 2004

IN RE: Applicant: 

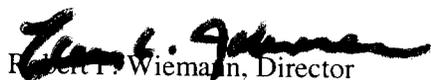
PETITION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

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. Wieman, 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, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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 since before January 1, 1982 through May 4, 1988.

On appeal, the applicant submits a separate statement in which he reaffirms his eligibility for permanent resident status under the LIFE Act. The applicant also takes issue with the district director's observations in her decision regarding inconsistencies in the evidence he presented in support of his claim to continuous unlawful residence in the U.S. from before January 1, 1982 through May 4, 1988.

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. 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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Although CIS 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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

- A form affidavit from [REDACTED] who attested to the applicant having resided in Lomita, California, from 1981 to 1983, and in Harbor City, California, from 1983 to 1990. The affiant bases his knowledge on having been acquainted with the applicant since the applicant's 1981 arrival in this country;
- An affidavit from [REDACTED] who attested to the applicant having resided in Lomita, California, from 1981 to 1983, and in Harbor City, California, from 1983 to 1990. The affiant bases his knowledge on having been good friends with the applicant since the applicant's 1981 arrival in this country;
- A photocopy of a Traveler's Express Money Order dated December 17, 1983, which was made out to [REDACTED] by the applicant;

- Photocopies of envelopes sent by the applicant at an address in Harbor City, California, to [REDACTED] in Mexico, which carry the following postmark dates: April 1, 1983, March 27, 1984, May 1, 1985, May 9, 1986, May 19, 1986, and June 25, 1986;
- A letter from [REDACTED] Landscape & Maintenance, who states the applicant performed intermittent employment for him during the years 1981, 1982 and 1987;
- An affidavit from [REDACTED] who attests to the applicant having resided in Harbor City, California, since 1981. The affiant bases her knowledge on having known the applicant since he first arrived in the U.S. and on being a neighbor of the applicant for many years;
- An affidavit from Jose [REDACTED] who attests to the applicant having resided in Harbor City, California, since 1981. The affiant bases his knowledge on having first met the applicant shortly after the applicant arrived in the U.S.;
- An affidavit from [REDACTED] who attests to the applicant having resided in Harbor City, California, from 1992 to 2002. The affiant bases his knowledge on having been close friends with the applicant for over 10 years;
- An affidavit from [REDACTED] who attests to the applicant having resided in Los Angeles, California, since 1981. The affiant indicates he first met the applicant in January 1981, and asserts that the applicant has resided in the U.S. for many years; and
- An affidavit from [REDACTED] who attests to the applicant having lived in Harbor City, California, since October 1981. The affiant bases his knowledge on the applicant having lived with him at the affiant's place of residence.

The regulations at 8 C.F.R. § 245a.2(d) provide a list of documents that may establish continuous residence and specify that "any other relevant document" may be submitted. However, while the documents provided by the applicant could possibly be considered as evidence of continuous residence during the period under discussion, certain questions arise from this documentation which, in turn, impact on the overall credibility of his claim. As indicated in the district director's notice of intent to deny, at least two of the third-party affidavits submitted in support of the applicant's claim contain information which contradicts information provided in another affidavit, as well as information by the applicant himself in a previously-completed application. Specifically, affidavits from [REDACTED] indicate the applicant resided in Lomita, California, from 1981 to 1983, in Harbor City, California, from 1983 to 1990, and in Torrance, California, since 1990. However, according to the affidavit from [REDACTED] the applicant resided in Los Angeles, California since 1981. Moreover, on his Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, signed by the applicant on July 31, 1993, the applicant indicates he has resided in Harbor City, California since October 1981.

A review of the record discloses still further inconsistencies regarding the applicant's residences in California. While several affidavits show the applicant having resided in Torrance, California, since 1990, according to the applicant's Form G-325A, completed on March 22, 2002, the applicant lived in Harbor City, California from January 1991 to December 2000, and has resided in Torrance since January 2001. In his July 18, 2002

response to the notice of intent to deny, the applicant does not acknowledge or attempt to explain the presence of these inconsistencies. The applicant's failure to account for or resolve these significant discrepancies in the evidence creates considerable doubt concerning the authenticity of the applicant's supporting documentation.

The district director also pointed out that that, in an employment letter from [REDACTED] Landscape & Maintenance, the employer stated that his knowledge that the applicant worked for him "off an on" during the years 1981, 1982 and 1987 would have to be based on his personal recollection, since his firm no longer maintained files or payroll records of employment which occurred more than 20 years ago. While the employer's explanation for the absence of employee personnel data after the passage of 20 years appears reasonable, the regulations at 8 C.F.R. § 245a.12(e) indicate that the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and its *amenability to verification*. Applications supported by documents such as [REDACTED] employment letter which are not susceptible to independent verification may be denied.

In addition, many of the affidavits submitted by the applicant do not adhere to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3). These affidavits fail to specify the basis of the affiant's knowledge or how the affiants became acquainted with the applicant. Additionally, most of the affidavits are not verifiable as they are not accompanied by the affiants' telephone numbers and, therefore, do not provide a convenient means by which the affiants may be contacted. Nor do these affidavits include the actual addresses where the applicant resided throughout the period in which the affiants have known the applicant.

Given the numerous unresolved credibility issues arising from discrepancies and inconsistencies in the applicant's documentation, along with the applicant's reliance on affidavits which do not meet basic standards of probative value or susceptibility to independent verification, it is concluded that he has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.