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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services



FILE: [REDACTED] Office: Los Angeles

Date: **NOV 12 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 he 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 he has submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant submits documentation in support of his 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 November 23, 1988. In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished the following evidence:

- An affidavit signed by [REDACTED] who provided his address and stated that he had personal knowledge that the applicant resided in the United States because he lived with the applicant in Santa Ana, California since 1981;
- An employment letter containing the letterhead of Pacific Environmental Landscape Inc., in Orange, California including this enterprise's Contractors License Number and Agricultural License Number that is signed by the president/owner, [REDACTED] stated that the applicant had been

employed as a full-time laborer by this enterprise from August 25, 1981 to March 22, 1990, the date the letter was executed; and,

- Another employment letter signed by [REDACTED] who provided a detailed description of the applicant's landscaping duties with Pacific Environmental Landscape Inc., as of the date the letter was executed on March 22, 1990.

The record shows that the applicant filed his LIFE Act application on August 13, 2001. With his LIFE Act application, the applicant included two additional affidavits in support of his claim of continuous residence in the United States since prior to January 1, 1982. The applicant also submitted over forty pages of photocopied payroll statements and tax documents issued to him by Pacific Environmental Landscape Inc. While such documents are not relevant to the applicant's claim of residence in the requisite period as they are all dated subsequent to May 4, 1988, these documents tend to establish that Pacific Environmental Landscape Inc was a functioning and viable business entity.

In the notice of intent to deny issued on July 2, 2003, the district director questioned the veracity of the applicant's claim of employment because the telephone number provided for Pacific Environmental Landscape Inc., was not a business number. In addition, the district director questioned whether the applicant could have performed the full scope of landscaping duties described in the second letter from [REDACTED] cited above, when he began working for Pacific Environmental Landscape Inc., in August 1981. The applicant was granted thirty days to submit a response to the notice. The record shows that the applicant did not submit a response and, therefore, the district director denied the application on September 24, 2003.

On appeal, the applicant states that the letter signed by [REDACTED] that contains the description of his duties with Pacific Environmental Landscape Inc., was written in the present tense and meant to state his duties as of the date of the letter, March 22, 1990. The applicant declares that this description was in no way intended to describe his duties when he began employment with this enterprise when he was much younger in 1981. The applicant asserts that was the reason why [REDACTED] wrote two separate employment letters, rather than just a single employment letter. The applicant states that although attempts to reach the telephone number provided for Pacific Environmental Landscape Inc., resulted in the finding that it was not a business number, the district director should have taken further steps to verify the existence of this company. The applicant contends that he was only added to the payroll records of Pacific Environmental Landscape Inc., when he reached "legal age" in 1989.

The applicant submits a computer printout from the Treasury Division of Finance and Management Services for the City of Santa Ana, California. This document tends to corroborate the fact that the landscaping company, Pacific Environmental Landscape Inc., in Orange, California was a viable business concern as claimed. In addition, the applicant submits a new letter signed by [REDACTED] who reiterated that he employed the applicant from 1981 to 2000 as the owner of this enterprise. [REDACTED] indicated that the applicant was still employed by Pacific Environmental Landscape Inc., when he sold the business to other parties in the year 2000.

The documentation submitted by the applicant on appeal appears to have credibly resolved the questions raised by the district director regarding the existence of Pacific Environmental Landscape Inc., where the

applicant claimed on his Form I-687 application to have been employed as a landscaper from 1981 to November 23, 1988, the date the application was submitted.

In this instance, the applicant submitted evidence, including affidavits and employment letters, which tends to corroborate his claim of residence in the United States during the requisite period. The district director has not 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.