

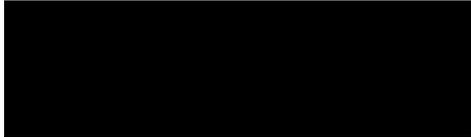
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: Milwaukee

Date:

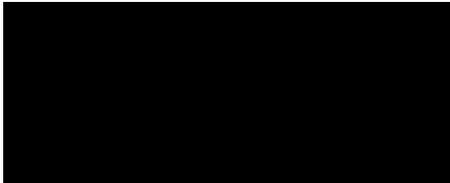
IN RE:

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. 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, Chicago, Illinois, 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, the counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to 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 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 16, 1990. In support of his claim of continuous residence in the United States since prior to January 1, 1982, the applicant submitted the following documents:

- An affidavit signed by [REDACTED] who provided her telephone number and indicated that she had known the applicant since at least 1984 and had personal knowledge that he was absent from this country from May 5, 1987 to June 1987;
- An employment letter containing the telephone number and letterhead of [REDACTED] Public Accountant in Milwaukee, Wisconsin, that has been signed by [REDACTED] indicated that the applicant's wife worked part-time for Northland Gas at [REDACTED] in Milwaukee, Wisconsin in 1982, 1983, and 1984;
- A letter dated October 9, 1990, that is signed by [REDACTED] and contains the address for the Dental Health Clinic in Fond Du Lac, Wisconsin. [REDACTED] indicated that the applicant was

treated at this establishment on December 14, 1981 and again on October 10, 1983, and that no outstanding balance remained;

- A photocopy of the applicant's dental chart that is dated December 14, 1981, and reflects dental treatments received by the applicant on December 14, 1981 and again on October 10, 1983;
- An affidavit of residence signed by [REDACTED] who indicated that the applicant and his spouse were his tenants at [REDACTED] WI from July 1981 to April 1987;
- A photocopy of a lease agreement dated June 30, 1981, between the applicant and his spouse and [REDACTED] for the property at [REDACTED] in Milwaukee, Wisconsin for a term of one year from July 5, 1981 to August 31, 1982; and,
- A photocopy of a "Rental Application and Agreement" dated May 27, 1987, between the applicant and his spouse and [REDACTED] for the property at [REDACTED] in Milwaukee, Wisconsin with occupation of the premises commencing on June 1, 1987.

In this instance, the applicant submitted evidence including, affidavits, employment letters, lease agreements, and dental records, attesting to his residence in the United States during the period in question. 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.