

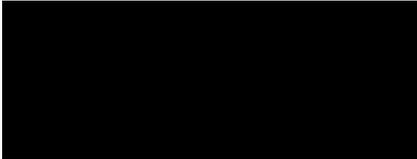
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: PHOENIX

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AUG 16 2005

IN RE:

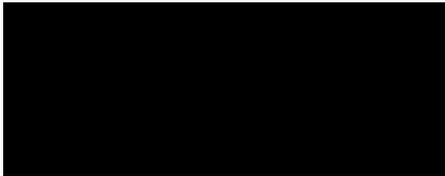
Applicant:



APPLICATION:

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. Any further inquiry must be made to that office.

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, Phoenix, Arizona, and is now before the Administrative Appeals Office 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, 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. Counsel provides additional evidence in support of the 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. 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).

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence throughout the application process:

- A notarized affidavit from [REDACTED] who indicated that he had known the applicant since 1981.
- Bank transcripts from February 29, 1988 to January 30 1988.
- A Trans Union credit report reflecting the applicant's credit since June 1986.
- A California identification card issued on August 6, 1985.
- A statement from [REDACTED] attesting to the applicant's residence in Van Nuys, California from December 1981 to July 1987.
- A statement from [REDACTED] general manager of Baldwin Park Motel in Baldwin Park, California who indicated that the applicant worked at the motel as a front desk clerk from 1981 to 1987.

The director issued a Notice of Intent to Deny dated January 21, 2004 informing the applicant that the statements from [REDACTED] and [REDACTED] were not sufficient evidence to establish his residence as they lacked detail, were uncorroborated and provided no basis for their information. The applicant, in response, submitted:

- A California check cashing card issued on October 8, 1985.
- A letter from [REDACTED] general manager of Econo Lodge in Tempe, Arizona who indicated that he has known the applicant since 1981, and has remained in close contact with the applicant since that time.
- A Certificate of Title from the Arizona Department of Transportation issued in April 1988.
- A credit report from Equifax Credit Information Services listing a February 1988 automobile account with Bank of America.

On appeal, counsel submits an additional letter from [REDACTED] who indicated that in November 1981, the applicant visited his motel in Pomona, California seeking employment. [REDACTED] stated that he referred the applicant to the general manager at the Baldwin Park Motel where he was gainfully employed until 1987.

As previously noted, the statement of [REDACTED] has little probative value or evidentiary weight as the affiant failed to provide a telephone number or address and, therefore, is not amenable to verification by the Citizenship and Immigration Services.

Nevertheless, in this instance, the applicant submitted evidence, including contemporaneous documents, 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.