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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

U.S. Citizenship and Immigration Services

L2

FILE: [redacted] Office: LOS ANGELES Date: AUG 17 2006

IN RE: Applicant: [redacted]

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:

[redacted]

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, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

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 documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant provides additional documentation 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:

- An affidavit from [redacted] who indicated that the applicant had been in his employ as a babysitter from January 1982 to March 1986.
- A letter from [redacted] pastor or The Parish of Saint Anne in Santa Ana, California who indicated that according to the church records the applicant has been a member of its parish since 1981.
- Affidavits from [redacted] and [redacted] who attested to the applicant's residence in Santa Ana, California since March 1982. The affiants asserted that they have remained friends with the applicant since that time.
- A statement dated May 17, 1990 from [redacted] who indicated that she has employed the applicant every other Friday as a housekeeper since 1986.

- A letter dated May 23, 1990 from who indicated that the applicant has been in his employ for the last couple of years as a janitor.
- An affidavit from who indicated that the applicant has resided and shared expense with her since November 1981. Ms. provided a list of the residences she and the applicant have resided.
- A statement dated May 17, 1990 from who indicated that she has employed the applicant every other Friday as a housekeeper since December 1981.
- A medical document dated in 1983 from Gardena Medical Center in Gardena, California.
- Lease agreements entered into on November 15, 1981, 1982, 1983 and 1984 for residence at
- Lease agreements entered into on May 1, 1985, 1986, 1987 and 1988.
- Affidavits from and who attested to the applicant's residences in Santa Ana, California since November 1981. The affiants asserted that they remained good friends with the applicant since that time.

The lease agreements submitted appeared to have been written at a later time and, therefore, have little probative value and evidentiary weight.

Nevertheless, in this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate her 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.

Beyond the decision of the director, the record contains a sworn statement that appears to have been written by the applicant on April 22, 2003 that may render her ineligible pursuant to 8 C.F.R. § 245a.15(c)(1). The sworn statement indicates that the applicant departed the United States in May 1986 and returned September 1986. The interviewing officer's notes reflect this absence, but the director did not mention this issue in the Notice of Intent to Deny or the Notice of Decision.

Accordingly, the case is remanded for the issuance of a Notice to Deny addressing this issue and for the entry of a new decision in accordance with the foregoing. If the new decision is adverse, it shall be certified to this office.

ORDER: This matter is remanded for further action and consideration pursuant to the above.