

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



L2

FILE:



Office: LOS ANGELES

Date: **AUG 23 2005**

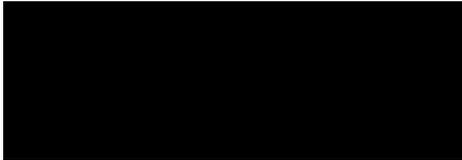
IN RE:

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, Los Angeles, California, 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.

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 letter from an individual (name illegible) at Amin Brothers Corporation in Palmdale, California who indicated that the applicant has been employed since 1982, returned to India in November 1987 and returned to work in December 1987.
- An affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, and Palmdale, California since May 1981.
- A photocopy of medical appointments and a letter from Surender Laroyia, D.D.S. of Long Beach, California indicating that the applicant had visited the affiant's office on several occasions between April 24, 1981 and March 15, 2004.
- A letter from Dr. Piara Singh, President and Chairman of Gurudwara Vermont in Los Angeles, California who indicated that since 1981 the applicant has been a regular member of its temple.

- An affidavit from Gurdev Singh who indicated that in 1981 he met the applicant at the Sikh Temple in Los Angeles, California, and has remained in close contact since that time.
- Three cash receipts from Sikh Temple in Los Angeles, California dated April 13, 1981, March 11, 1982 and April 13, 1983.
- A statement from Surinder Singh who attested to the applicant's residence at [REDACTED] since May 1981.
- A letter dated March 30, 2004 from Bishop Henry W. Hearn, vice mayor of the City of Lancaster, California who asserted that he has known the applicant since 1986.

In response to the Notice of Intent to Deny dated July 1, 2004, counsel provided affidavits from [REDACTED] and [REDACTED]. However, these affidavits have no probative value or evidentiary weight as both affiants' attestations pertain to someone other than the applicant.

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.