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FILE:

Office: LOS ANGELES

Date: DEC 15 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:

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. 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, the applicant asserts that he 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 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:

- An affidavit from [REDACTED], Jr. who attested to the applicant's residence in the United States since 1981. [REDACTED] asserted that he met the applicant through the applicant's cousin who is now his spouse.
- An affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles County, California from February 1982 to the present. [REDACTED] asserted that the applicant was a client at a restaurant where he was employed.
- An affidavit notarized February 2, 2001 from [REDACTED] who indicated that he has personally known the applicant since 1983 as the applicant has been in his employ as a gardener.
- An affidavit from [REDACTED] who indicated that he has known the applicant since 1985 as he and the applicant used to place soccer on the weekends. [REDACTED] asserted that he and the applicant have remained friends since that time.

- An affidavit from [REDACTED] an uncle, who indicated that the applicant resided with him at [REDACTED] El Monte, California from October 1981 to February 1984.
- An affidavit from [REDACTED] California who indicated that the applicant, whose duties included yard work and small maintenance jobs, was in their employ from 1982 to 1988.
- Affidavits from [REDACTED] who attested to the applicant's residence in the United States at the home of the applicant's uncle, [REDACTED] since 1981. The affiants asserted that they have remained friends with the applicant since that time.

The applicant also submitted two affidavits from [REDACTED] one notarized on April 10, 1992 and the other on May 20, 1992. In her first affidavit, [REDACTED] attested to the applicant's residences in "Babylon, New York from February 1980 to March 1987" and in El Monte, California since March 1987. This affidavit cannot be considered as it contradicts all the other affidavits including the applicant's Form I-687 application that attest to the applicant's residence in the State of California from 1981 to the present. The second affidavit is a 'landlord affidavit which is incomplete and, therefore, has little probative value or evidentiary weight.

Nevertheless, 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.