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U.S. Citizenship
and Immigration
Services

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FILE:



Office: LOS ANGELES

Date: FEB 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:

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 submits additional documentation in an effort to establish continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

It is noted that the district director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3. As such, the documentation throughout the application process will be considered on 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 self-serving statement dated December 21, 1989 from the applicant indicating that from September 1981 to the present he has been self-employed, engaging in various odd jobs and receiving cash for his wages.
- A letter dated June 28, 2001 from [REDACTED] who indicated that he has known the applicant since 1982, and attested to the applicant's character.
- An employment letter dated December 20, 1989 from [REDACTED] in Sylmar, California indicating that the applicant has been a part-time employee since 1981.

- Two letters dated June 29, 2001, and December 1, 2003 from [REDACTED] who attested to the applicant's residence in Los Angeles since 1981.
- A notarized affidavit dated December 20, 1989, from [REDACTED] who indicated that the applicant has resided in his home in Bell, California since September 10, 1981.
- A notarized affidavit dated December 20, 1989 from [REDACTED] who indicated that he has known the applicant and attested to his residence in the United States since 1981. Mr. [REDACTED] based his knowledge on having been a co-worker and good friend with the applicant since that time.
- A letter dated August 4, 2003 from [REDACTED] who indicated that he met the applicant in Los Angeles County in November 1981
- A notarized affidavit dated December 14, 1989 from [REDACTED] who attested to the applicant's residence in United States since 1981. Ms. [REDACTED] based her knowledge on having been good friends with the applicant since that time.
- A notarized affidavit from [REDACTED] who attested to the applicant's presence in the United States since 1981. Mr. [REDACTED] indicated that for many years the applicant detailed his vehicle every month at his residence.
- A declaration from [REDACTED] who indicated that she has known the applicant since 1981. Ms. [REDACTED] based her knowledge on having been good friends with the applicant since that time.
- A declaration from Teresa Llamas who indicated that she has known the applicant since 1984. Ms. [REDACTED] based her knowledge on having been good friends with the applicant since that time.
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- A declaration from [REDACTED] who indicated that he met the applicant in 1982 at a soccer tournament.

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.