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



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: LOS ANGELES

Date:

JUL 06 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 requests that his response to the Notice of Intent to Deny be reconsidered.

It is noted that the 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 submitted 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:

- 1986, 1987 and 1988 wage and tax statements from Mid Way Painting & Maint. Co. in Los Angeles, California.
- A 1984 and 1985 Form 1099-Misc from [REDACTED] & [REDACTED] Cont. in Los Angeles, California.
- 1981, 1982 and 1983 wage and tax statements from California Furniture Shops, LTD. in Los Angeles, California.
- An affidavit from [REDACTED] who indicated that the applicant resided at her home at [REDACTED] Los Angeles, California from March 1980 to July 1988.

It is noted that all the wage and tax statements and Forms 1099-Misc. list the applicant's address at [REDACTED]

The director, in her Notice of Intent to Deny issued on June 8, 2004, informed the applicant of contradicting documents namely, [REDACTED] affidavit which attested to the applicant's residence at [REDACTED] from March 1980 to July 1988, and the rent receipt dated July 6, 1988, which listed the applicant's residence at [REDACTED] from July 1 to August 1, 1988. The applicant, in response, asserted that he moved to [REDACTED] on July 6, 1988 and was residing at [REDACTED] through the first days of July 1988.

The location of the applicant's residence during July 1988 is irrelevant as said residence occurred subsequent to the January 1, 1982 through May 4, 1988 requisite period and is not a basis for establishing eligibility. See 8 C.F.R. § 245a.11(b).

The 1982 wage and tax statement from California Furniture Shops, LTD. has been altered and, therefore, cannot be accepted as credible evidence of the applicant's employment during 1982.

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.