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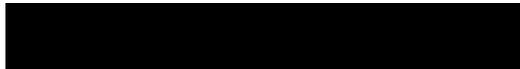


Office: LOS ANGELES

Date: JUN 07 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. Counsel states that a letter submitted by the applicant to establish his residence was hard to understand as it was poorly written, used no punctuation and was one long run-on sentence. Counsel requests 30 days in which to provide a brief and additional evidence. To date, however, no further correspondence has been presented by counsel.

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:

- A California identification card issued on April 17, 1984.
- Two envelopes postmarked March 6, 1984 and August 23, 1984 with the applicant's return California address on them.

- A letter dated April 19, 1994 from [REDACTED] who indicated that he has known the applicant since 1983. Mr. [REDACTED] asserted that the applicant resided at his rental unit, [REDACTED] California from April 1981 through November 1984.
- An affidavit from [REDACTED] who indicated that the applicant resided with her at [REDACTED] California from 1985 through 1986.
- An affidavit from [REDACTED] who attested to the applicant's address at [REDACTED] California from June 10, 1986 through June 30, 1991.

The director issued a Notice of Intent to Deny dated December 22, 2003, informing the applicant that [REDACTED] [REDACTED] letter lacked credibility as he claimed to have known the applicant since "1983", but rented a unit to him from "1981" through 1984.

The applicant, in response, provided an additional letter from Mr. [REDACTED] in which he clarified his previous letter. Mr. [REDACTED] asserted that due to his inability to write and use proper punctuation his letter, when read, was confusing. Mr. [REDACTED] stated that he owned and rented units located at [REDACTED] from 1979 through 1990, and rented a unit to the applicant from April 1981 until November 1984. Mr. [REDACTED] asserted that during that time he had a manager who collected the rents and handled any tenant problems at this location. In 1983, he met the applicant while making some repairs at the rental units and has been an acquaintance of the applicant since that time.

Mr. [REDACTED] statement has been reviewed and is considered to be a reasonable explanation in this circumstance.

The applicant also submitted affidavits from [REDACTED] and [REDACTED] who indicated they have known the applicant since 1975, and an affidavit from [REDACTED] who attested to the applicant's residence in California since June 1981.

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.