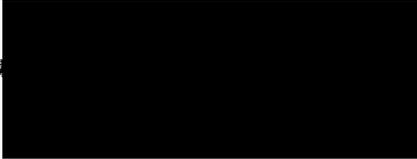




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FILE:



Office: LOS ANGELES

Date: JUN 10 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 provided a response to the Notice of Intent to Deny and requests that his application be reconsidered.

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:

- Two affidavits from [REDACTED] who attested to the applicant's residence in the United States. [REDACTED] indicated he has known the applicant since November 1981 through the applicant's place of employment at [REDACTED].
- Two affidavits from [REDACTED] who attested to the applicant's residence in the United States. [REDACTED] indicated he has known the applicant since July 1981 through the applicant's place of employment at Deal Industrial Hardware.
- An affidavit from [REDACTED] who attested to the applicant's residence in the United States. [REDACTED] indicated he has known the applicant since 1981 through the applicant's place of employment at Deal Industrial Hardware.
- Two affidavits from [REDACTED] who indicated that the applicant resided at his home at 8503 Flallon Avenue, Whittier, California from March 21, 1981 through February 1990.

- Letters from [REDACTED] of St. Mary of the Assumption Church in Whittier, California indicating that the applicant has been an active member of its parish since May 1981.
- A letter dated July 26, 1993 from [REDACTED] owner of Deal Industrial Hardware & Supply Co., Inc. in Sante Fe Springs, California who indicated that the applicant has been in her employ since May 1981.
- An affidavit from [REDACTED] who attested to the applicant's residence in the United States. [REDACTED] indicated he has known the applicant since 1987 through the applicant's place of employment at Deal Industrial Hardware.
- An affidavit from [REDACTED] who indicated he has known the applicant since 1983 [REDACTED] [REDACTED] asserted that he met the applicant as a sales meeting between his employer, [REDACTED] [REDACTED]
- Several receipts issued during April 1984, December 1986 and July 1987.

The director, in denying the application, noted that the applicant failed to submit a rebuttal to the Notice of Intent to Deny issued on April 22, 2004. A review of the applicant's documentation, which was sent by certified mail, reveals that the applicant's response was received at the Los Angeles District Office on May 27, 2004, a day before the issuance of the Notice of Decision. As such, the applicant's response will be considered on appeal. In response to the Notice of Intent to Deny, the applicant submitted copies of documents initially provided along with additional affidavits from [REDACTED]. The affiants all reaffirmed the veracity of their prior affidavits.

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.