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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: Los Angeles

Date: **MAR 08 2005**

IN RE:

Applicant:

[REDACTED]

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:

[REDACTED]

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. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann

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 (AAO) 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 since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the applicant submitted sufficient documentation to establish his eligibility for permanent resident status under the LIFE Act.

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 support of his claim of continuous residence in the United States since prior to January 1, 1982, the applicant submitted three affidavits of residence, an employment letter, published materials, and photocopies of eighteen rent receipts.

On March 24, 2004, the district director issued a notice of intent to deny to the applicant informing her of the Immigration and Naturalization Service's, or the Service's (now Citizenship and Immigration Services, or CIS) intent to deny her application because she failed to submit sufficient evidence of continuous unlawful residence in the United States from January 1, 1982 through 1983. Specifically, the district director questioned the veracity of the applicant's claim of residence because the receipts were "...in good condition for original aged documents." However, such a conclusion must be considered speculative, as the condition of the receipts tends to reflect the applicant's careful record keeping and storage rather than any lack of credibility.

The district director further noted that the applicant had submitted a lease for an apartment he claimed to have resided in from October 1980 to February 1988. While the lease was signed by building manager, Miguel Soriano Bautista, and dated October 10, 1980, the district director concluded that the lease was not a credible

supporting document because it contained a revision date of March 2001. The applicant was granted thirty days to respond to the notice.

In response, the applicant submitted a statement signed by Miguel Soriano Bautista, the same individual who signed the lease cited by the district director. In his statement, Mr. Bautista indicated that he provided the applicant with a reconstituted lease because he had personal knowledge as building manager that the applicant resided at that address for period claimed. Mr. Bautista declared that an original lease was impossible to obtain because the applicant could not find his copy and the ownership of the building had changed. The explanation advanced by Mr. Bautista as to why he had provided the applicant with a contemporaneous document to reflect events in the past is considered to be plausible under the circumstances.

In this instance, the applicant submitted evidence, including affidavits, an employment letter, and contemporaneous documents, which tends to corroborate his claim of residence in the United States during the requisite period. The district director has not sufficiently 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.