

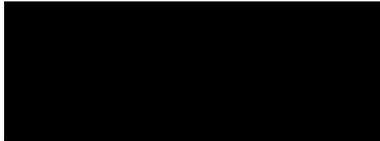
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U.S. Citizenship  
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Services

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FILE:



Office: LOS ANGELES

Date: MAR 09 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 his continuous residence in the United States.

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 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 notarized affidavit from [REDACTED] who attested to the applicant's residence in Santa Ana, California since 1981.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Santa Ana, California since 1979. Mr. [REDACTED] asserted that he and the applicant were roommates from 1981 to 1982 and have remained good friends.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in the United States since 1979. Mr. [REDACTED] asserted that the applicant married his sister in 1984 and have remained good friends since 1979.

- A notarized affidavit from [REDACTED] who attested to the applicant's residence in the United States since 1979. Mr. [REDACTED] based his knowledge on having been good friends with the applicant since that time.
- An undated letter from the store manager of [REDACTED] who indicated that the applicant has been a customer since November 29, 1979.
- A notarized affidavit from [REDACTED] who indicated that the applicant was in his employ as a landscaper from March 1986 through January 1988.
- A statement from [REDACTED] who indicated that the applicant resided in his home from May 1984 until 1989.
- A letter from [REDACTED] plant manager of [REDACTED] in Santa Ana, California who indicated that the applicant was employed from April 30, 1979 through January 18, 1985.
- A letter from a representative of The Orange County Register in Santa Ana, California attesting to the applicant's employment as an inserter from September 26, 1984 through January 7, 1986.
- A letter dated April 28, 2003 from the Social Security Administration in Santa Ana, California, which listed the applicant's places and dates of employment during the years 1979 through 1984.
- An envelope postmarked May 24, 1982 from the applicant in Santa Ana, California to an address in Mexico.
- A lease agreement dated August 21, 1982 along with several rent receipts issued during August 1982 through January 1983.
- A lease agreement dated August 21, 1982 for one year.

On April 22, 2003, the applicant was requested to submit evidence of his continuous residence in the United States during 1986 through 1988. The applicant, in response, asserted that during 1986 through 1988 he worked for [REDACTED] and received his wages in cash. The applicant asserted that he did not file income tax returns because he did not have a valid social security number.

In response to a Notice of Intent to Deny issued on December 17, 2003, the applicant submitted an additional notarized employment affidavit from [REDACTED] who reaffirmed the applicant's employment as a landscaper from March 1986 through January 1988. The applicant also provided a self-serving statement asserted that he was employed by [REDACTED] doing maintenance work at an apartment complex located at [REDACTED] Santa Ana, California from February 10, 1988 through November 25, 1988. The applicant asserted that the building has since been demolished and due to the passage of time, he is unable to locate Mr. [REDACTED]

The applicant's statement regarding the inability to produce documentation from Mr. [REDACTED] due to the result of the passage of time is considered to be a reasonable explanation in these circumstances.

On appeal, the applicant submits a notarized affidavit from [REDACTED] who indicated that the applicant resided with him at [REDACTED] Santa Ana, California from February 1988 through November 1988.

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.