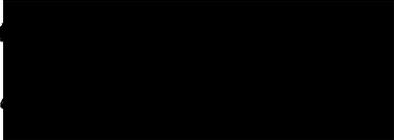


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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services



L2

FILE:



Office: LOS ANGELES

Date: MAR 09 2003

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 she 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 provides copies of previously submitted documentation in support of the appeal.

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:

- Several rent receipts issued during 1984, 1985 and 1987 for residence at [REDACTED] Los Angeles, California.
- Several rent receipts issued during 1986 for residence at [REDACTED] California.
- Several illegible rent receipts issued during 1983. It is noted that the receipts do not list an address.
- Several statements written in the Spanish language without the required English translation.

- Her child's August 9, 1982 birth certificate and immunization record reflecting vaccinations given during 1982, 1983, 1984 and 1987.
- An unemployment insurance claim dated September 5, 1982, and a request for an employment record dated September 9, 1982, which listed the applicant's last day of work as January 12, 1982 at [REDACTED] in Los Angeles, California.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California from March 1981 to April 1982. Mr. [REDACTED] indicated that the applicant was in his employ as a housekeeper.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since May 1980. Mr. [REDACTED] indicated that he married the applicant's sister and has remained good friends.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since June 1980.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since May 1980. Mr. [REDACTED] indicated that the applicant is his mother-in-law.
- A letter dated March 23, 1982 from a representative of [REDACTED] which attested to the applicant's employment since August 2, 1981.
- A Letter of Verification from [REDACTED] principal of Sheridan Street School who attested to the applicant's son's enrollment from September 1987 through June 1990.
- An August 22, 1981 postmarked envelope.
- A check cashing identification card approved September 16, 1981.
- A reference slip from the Department of Social Services dated August 31, 1989 indicating that the applicant has been receiving aid for her son since August 16, 1982.

On appeal, counsel provided copies of documents that were previously submitted along with:

- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since September 1985.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since July 1986. Ms. [REDACTED] asserted that she was the manager of the building where the applicant resided in 1986.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since August 1985.

In this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate her 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.