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

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: Houston Date: NOV 1 4 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: 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. 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, 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, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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 since before January 1, 1982 through May 4, 1988.

On appeal, the applicant indicates that she is unable to obtain further evidence in support of her claim of residence because the person who prepared her original application is "no longer living in Spring." The applicant contends that she also misplaced additional evidence in support of her claim of residence when she had moved to a new address. The applicant asserts that she should be allowed to adjust to permanent resident status under the provisions of the LIFE Act because she has children living in the United States. The applicant submits documentation in support of her 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. *See* § 1104(c)(2)(B) of the LIFE Act and 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on June 18, 1990. On the Form I-687 application, the applicant indicated that she first entered and began residing in the United States in May 1981.

The record shows that the applicant subsequently submitted a Form I-485, Application to Register Permanent Resident or Adjust Status, on June 29, 2002. The record further shows that the applicant subsequently appeared for the requisite interview relating to her LIFE Act application on December 9, 2003. During the course of this interview, the interviewing officer's reflect that the applicant testified that she did not enter the United States until May 1982, rather than May 1981 as claimed on the Form I-687 application. The record shows that the applicant repeated that she first entered the United States in 1982 when asked by the

interviewing officer regarding the date of her first entry into this country. The record further shows that the applicant reaffirmed her testimony that she first entered this country in May 1982 by signing the interviewing officer's notes.

Based upon the applicant's admission that she had not entered the United States until May 1982, the district director concluded that the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. Therefore, the district director determined that the applicant was ineligible for permanent residence under the provisions of LIFE Act and denied the application.

The applicant statements on appeal have been considered. However, the applicant fails to put forth any compelling reason as to why her previous testimony that she did not enter the United States until May 1982 should be disregarded. Further, there is no exception, even for humanitarian reasons, to the requirement that an applicant for permanent residence under the provisions of the LIFE Act must have continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

Given the applicant's own admission that she did not enter the United States until 1982, it is concluded that he has failed to establish continuous residence in this country from prior to January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.