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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

L2

[Redacted]

FILE:

[Redacted]
MSC 01 320 60566

Office: HOUSTON

Date: DEC 18 2006

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. The file has 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
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. This matter will be remanded for further action and consideration.

The director denied the application because the applicant failed to establish that she satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act.

On appeal, counsel for the applicant asserts that the applicant was not sent a Notice of Intent to Deny (NOID) pursuant to 8 C.F.R. § 245a.20, and that she has completed a citizenship skills class and satisfies the basic citizenship skills requirement. In support of her appeal the applicant submits additional evidence.

According to the record, the applicant had four separate interviews with Citizenship and Immigration Services (CIS), on February 14, 2002, the applicant failed to show up, and on each of the three subsequent occasions, October 7, 2002, May 14, 2003, and May 5, 2004, the applicant could not be placed under oath because she could not speak or understand English.

On May 14, 2003, prior to her third interview, the director gave the applicant a request for additional evidence. Specifically, the director requested:

The Immigration and Naturalization Service (the Service) has a certificate of completion or letter of current attendance on the above applicant and class. **The additional information the Service requires is as follows:**

- (a) Please provide a copy of whichever is applicable to your institute or school: a certificate from the Texas Workforce Commission [TWC], a certificate from the Higher Education Board or a letter from TWC granting a request for exemption.
- (b) Please provide list of all approved courses by TWC or the Higher Education Board.
- (c) *Is the above course, according to the standards of your learning institute, the equivalent of one academic year?*
- (d) Does the curriculum include at least 40 hours of instruction in English and United States history and government?
- (e) Who in your organization is authorized to sign the certificates of completion or current attendance for your institute?

The applicant did not respond and subsequently, May 5, 2004, at her third interview the applicant could not be placed under oath because she did not speak or understand English and the interview could not be conducted.

On December 6, 2004, the director denied the application because the applicant had failed to establish that she satisfied the basic citizenship skills requirements.

The regulations at 8 C.F.R. § 245a.20(a)(2) state, in pertinent part:

Denials. The alien shall be notified in writing of the decision of denial and of the reason(s) therefore. When an adverse decision is proposed, CIS shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted a period of 30 days from the date of the notice in which to respond to the notice of intent to deny. All relevant material will be considered in making a final decision.

A review of both the electronic and administrative record reveals that a notice of intent to deny was never issued to the applicant, his former representative, or current counsel.

On appeal, the applicant submitted a copy of a certificate of completion, dated "December 2002", 2003, from "North Harris College." The certificate of completion does not establish that the program follows a curriculum of one academic year with 40 academic hours of instruction in English, U.S. government and history. 8 C.F.R. § 245a.17(b). In addition, if the applicant is enrolled in such a program they must provide documentation of such prior to or during the LIFE interview. *See* 8 C.F.R. § 245a.17(a)(3). On appeal the applicant states she was not allowed to present this evidence, but this is not supported by the record. In fact, CIS gave the applicant correspondence requesting additional evidence to verify the qualifying nature of the program and the applicant failed to respond. Thus, the evidence submitted by the applicant does not establish that she was attending a state recognized, accredited learning institution for one academic year in a curriculum including 40 hours of instruction in English, and United States government and history.

Accordingly, the decision of the district director is withdrawn. The case will be remanded for the purpose of the issuance of a notice of intent to deny, which addresses the evidence and the basis for the proposed denial, as well as a new decision to both counsel and the applicant. If the director finds that the applicant has not established eligibility under section 1104 of the LIFE Act, the director shall consider whether the applicant has established eligibility for adjustment to temporary resident status under section 245A of the Act. 8 C.F.R. § 245a.6. The new decision, if adverse, shall be certified to this office for review.

ORDER: This matter is remanded for further action and consideration pursuant to the above.