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U.S. Department of Homeland Security
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U.S. Citizenship
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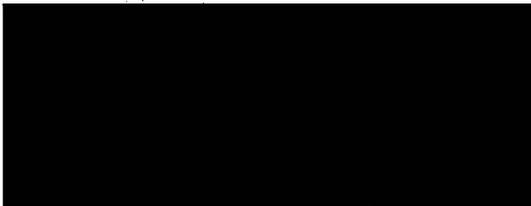


FILE: [REDACTED] Office: SAN FRANCISCO Date: NOV 27 2006
MSC 02 246 61778

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:



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, 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, San Francisco, and is now before the Administrative Appeals Office on appeal. The AAO remands the case for further action and consideration.

The 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, counsel does not submit additional evidence but contends that the documentation submitted by the applicant contains correct information and that any inconsistencies in the record are the result of the applicant becoming "confused" during his interview.

The regulation at 8 C.F.R. § 245a.20(a)(2) requires that when an adverse decision is proposed, an applicant for LIFE legalization must be notified of the intention to deny the application and the basis for the proposed denial, and granted a period of 30 days to respond to this notice.

In a "Notice of Intent to Deny – Request for Evidence" dated July 15, 2003, the director stated that the documentation submitted by the applicant was insufficient to warrant approval of the application and requested additional evidence of the applicant's entry into the United States before January 1, 1982, evidence of the applicant's unlawful status and continuous residence in the United States from January 1, 1982 through May 4, 1988, and a list of all the applicant's absences from the United States from January 1, 1982 and May 4, 1988. However, the "NOID-RFE" failed to analyze the evidence submitted by the applicant and to detail any particular deficiencies therein. It did not give the applicant adequate notice of the specific grounds on which the subsequent denial was based as required by 8 C.F.R. § 245a.20(a)(2).

Consequently, the case must be remanded for issuance of a new decision. If the director determines that the application should be denied, the director shall issue a Notice of Intent to Deny containing a detailed statement of the basis for the proposed denial, and the applicant must be granted a period of 30 days to respond to this notice.

ORDER: The application is remanded to the director for further action in accordance with the foregoing and entry of a new decision that, if adverse to the applicant, is to be certified to the Administrative Appeals Office for review.