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U.S. Citizenship
and Immigration
Services

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FILE:



Office: SAN FRANCISCO

Date: SEP 22 2006

MSC 02 039 63926

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, 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, California, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

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

The regulation at 8 C.F.R. § 245a.20(a)(2) provides that when an adverse decision is proposed, the Citizenship and Immigration Services shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted 30 days from the date of the notice in which to respond to the Notice of Intent to Deny.

The record indicates that on December 9, 2004, the director issued an "Intent to Deny-Request for Evidence." The notice, however, only requested that the applicant list all of his absences from the United States since January 1, 1982, and provide the birth certificates of his children and evidence to establish his continuous residence and presence during the requisite period and his entry into the United States prior to January 1, 1982. As the notice did not address the evidence furnished initially and indicate the basis for the proposed denial, it cannot be considered a Notice of Intent to Deny.

Accordingly, the case is remanded for the issuance of a Notice to Deny and for the entry of a new decision in accordance with the foregoing. If the new decision is adverse, it shall be certified to this office.

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