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U.S. Citizenship
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Services

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FILE: [Redacted]
MSC 02 232 66881

Office: SAN FRANCISCO

Date: SEP 22 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:



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 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. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

The regulation at 8 C.F.R. § 245a.20(a)(2) provides that when an adverse decision is proposed, Citizenship and Immigration Services (CIS) 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, however, does not reflect that a Notice of Intent to Deny was issued prior to the director's Notice of Decision. We note that the director indicated in his decision that the applicant was interviewed on April 17, 2003 and notified that CIS intended to deny his application. However, the record reveals that the applicant's April 17, 2003 interview was rescheduled to December 11, 2003, on which date the director issued a request for additional evidence. The record also reflects that the applicant responded to this request for evidence on March 9, 2004.

Accordingly, the case is remanded for the issuance of a Notice of Intent 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.

We note that the applicant has two convictions as an adult for driving under the influence in violation of California Vehicle Code 23152a. On September 14, 1989, he was sentenced to six months in the county jail, all of which was suspended except 48 days, ordered to DUI school, and to pay a fine of \$725 and court costs. On March 23, 1990, following his second conviction, the applicant was ordered to again attend a level one DUI program. Neither of these convictions appears to be disqualifying for purposes of the LIFE Act.

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