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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
MSC-02-239-61998

Office: CHICAGO

Date: DEC 12 2007

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 your case 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, Chicago. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined the applicant failed to establish by a preponderance of the evidence that she meets the requirements to adjust status under the LIFE Act.

On appeal, counsel for the applicant explained that an application cannot be denied solely on the grounds that only affidavits were submitted. Memo, Carpenter, Acting Principal Advisor, CIS, HQCOU 70/10.14 (Dec. 5, 2003), reprinted in 80 No. 47 *Interpreter Releases* 1685-87 (Dec. 15, 2003). Counsel explained that the director failed to give the affidavit from the applicant's employer the weight it deserves. Counsel also identified two erroneous statements made by the director.

An applicant for permanent resident status under Section 1104 of the LIFE Act 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. Section 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 under the provisions of Section 245A of the Act, and is otherwise eligible for adjustment of status. The inference to be drawn from the documentation provided shall depend on the extent of the documentation and its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. See *U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent

probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that she resided in the United States from prior to January 1, 1982 through May 4, 1988. Here, the submitted evidence is not relevant, probative, and credible.

The record shows that the applicant submitted a Form I-485 Application to Register Permanent Resident or Adjust Status, to Citizenship and Immigration Services (CIS) on May 27, 2002. With this application, the applicant submitted a copy of Form I-687 Application for Status as a Temporary Resident, which she signed on December 5, 1990. At part #33 where applicants were asked to list all residences in the United States since first entry, the applicant listed the following Chicago, Illinois residences during the requisite period: [REDACTED] from 1981 to 1982, [REDACTED] from 1982 to 1982, [REDACTED] from 1982 to 1983, [REDACTED] from 1983 to 1983, [REDACTED] from 1983 to 1985, 5549 D. [sic] Damen from 1986 to 1988, and [REDACTED] from 1988 to 1989.

The applicant also included copies of multiple declarations and affidavits. In her declaration dated November 27, 1990, [REDACTED] stated that the applicant has worked with the declarant as a housekeeper since November 29, 1981. The declarant stated that she knows the applicant as [REDACTED]. This declaration does not conform to regulatory standards for letters from employers. Specifically, it does not include the applicant's address at the time of employment, whether the information was taken from official records, where the records are located, and whether CIS may have access to the records. 8 C.F.R. § 245a.2(d)(3)(i). It also does not indicate how many hours the applicant worked per week or month.

The applicant included a form affidavit from [REDACTED] dated December 4, 1990. The affiant stated that he has personally known the applicant from 1981 until the present and during this time she has resided in the United States. This affidavit fails to indicate where the applicant lived in the United States during the requisite period. The affiant also failed to explain how he met the applicant or how he can recall the date she began residing in the United States. Therefore, this affidavit is found to lack sufficient detail.

The applicant included a form affidavit from [REDACTED] dated December 4, 1990. The affiant stated that he has personally known the applicant from 1981 until the present and during this time she has resided in the United States. This affidavit fails to indicate where the applicant lived in the United States during the requisite period. The affiant failed to explain how he met the applicant or how he can recall the date she began residing in the United States. He also failed to state how frequently he saw the applicant. Therefore, this affidavit is found to lack sufficient detail.

The applicant also included a list of the addresses at which she resided during the requisite period, signed by herself and dated November 27, 1990. The applicant provided the following addresses: [REDACTED] 1981; [REDACTED] 1982; [REDACTED], 1983; [REDACTED], 1983; [REDACTED]

██████████ 1983 to 1985; ██████████ 1986; and 4636 N. Kimball, 1986 to 1989. This list is inconsistent with the information provided on Form I-687. Specifically, the applicant indicated on the list that she resided at ██████████ in 1986, although she indicated on Form I-687 that she resided at the same address from 1986 to 1988. She indicated on the list that she resided at ██████████ from 1986 to 1989, while she indicated on Form I-687 that she resided at that address from 1988 to 1989. These inconsistencies call into question whether the applicant actually resided in the United States throughout the requisite period.

The applicant also provided contemporaneous evidence in the form of postal receipts, letters addressed to her, and bank receipts. The applicant included three receipts and two envelopes listing her address as ██████████. These receipts are dated April 28, 1988; March 9, 1987; and June 22, 1987. The envelopes include postal cancellation dates of October 15, 1986 and November 10, 1987. These receipts and envelopes are all inconsistent with the information provided on Form I-687 and on the list of addresses the applicant submitted. The list of addresses indicates the applicant lived at ██████████ in 1986 and a ██████████ from 1986 to 1989. The Form I-687 indicates that the applicant lived at ██████████ from 1986 to 1988. Neither the address list nor the Form I-687 indicates the applicant ever lived at ██████████. These inconsistencies call into question whether the applicant resided in the United States during the requisite period.

The applicant also included multiple additional envelopes addressed to her, all of which are inconsistent with the information provided on Form I-687 and on the list of addresses she submitted. The envelopes include the following addresses and postal cancellation dates, accompanied by parenthetical notation of the address listed on Form I-687 for the relevant period: ██████████ on October 10, 1985 (instead of ██████████ on February 14, 1986 (instead of ██████████ on April 15, 1986 (instead of ██████████); ██████████ on December 12, 1981 (instead of ██████████ on July 10, 1986 (instead of ██████████ and ██████████ on April 5, 1983 and July 7, 1983 (instead of ██████████ Seely, or ██████████). These inconsistencies call into question whether the applicant actually resided in the United States during the requisite period. The applicant also included two envelopes with illegible postal cancellation dates.

The applicant provided three bank receipts listing her name. The receipts are dated September 23, 1986; May 18, 1987; and June 22, 1987. These receipts do not list the applicant's address. As a result, they hold limited evidentiary weight.

In response to a Notice of Intent to Deny (NOID) issued September 29, 2003, the applicant prepared a written statement. The applicant explained that she worked and lived in Ms. ██████████ house at 412 ██████████, as a housekeeper starting in November 1981. The applicant explained that this is the reason she has no utility bills and received mail at her friends' addresses. Ms. ██████████ letter did not confirm the applicant resided with her, and the applicant failed to list Ms. ██████████'s address as her residence on Form I-687. The applicant provided two declarations. In her declaration dated October 23, 2003, ██████████ stated that she met the applicant through a family member. The declarant stated, "... I have known [the applicant] [w]ho actually residing at ██████████, Chicago ... since 1981 to the present ... ." Because it is not clear whether the declarant is confirming the applicant's past or

current residence, and because the applicant indicated on Form I-687 that she lived at multiple addresses during the requisite period, this declaration does not clearly confirm the applicant resided in the United States throughout the requisite period.

The declaration from [REDACTED] states that the declarant and the applicant shared an apartment from 1981 to 1982 at [REDACTED]. The declarant stated that, while sharing this residence, the applicant only used the house on weekends because her job provided lodging on weekdays. As noted above, the declaration provided by the applicant's employer failed to confirm the applicant resided with the employer on weekdays. The declarant also stated that the applicant received mail at his address and shared costs of utility bills, which were listed in the declarant's name. The declarant failed to provide copies of utility bills listed in his name for the requisite period. This declaration does not confirm the applicant's residence in the United States beyond 1982.

In denying the application the director determined the applicant failed to establish by a preponderance of the evidence that she meets the requirements to adjust status under the LIFE Act. The director erroneously referred to the inadequacy of the applicant's evidence to establish she has been illegally and physically present in the United States from January 1, 1982 through May 4, 1988 instead of to establish she has continuously and unlawfully resided in the United States from before January 1, 1982 until May 4, 1988. The director also erroneously stated that the applicant had indicated on Form I-485 that she did not enter the United States until January 18, 1988. The applicant actually listed her date of last arrival, not her date of first entry, as January 18, 1988 on Form I-485. Although the director misstated the requirements for adjustment of status under the LIFE Act and erroneously stated that the applicant indicated she did not enter the United States until January 18, 1988, it is harmless error because the AAO conducts a de novo review, evaluating the sufficiency of the evidence in the record according to its probative value and credibility as required by the regulation at LIFE 8 C.F.R. § 245a.12(f).

On appeal, counsel for the applicant explained that an application cannot be denied solely on the grounds that only affidavits were submitted. Memo, Carpenter, reprinted in *Interpreter Releases, supra*, at 1685-87. Counsel explained that the director failed to give the affidavit from the applicant's employer the weight it deserves. It is noted that the director indicated he had considered the affidavits but found the applicant did not meet her burden of establishing that she meets the requirements for adjustment of status under the LIFE Act by a preponderance of the evidence. Counsel also identified two erroneous statements made by the director. Specifically, counsel indicated the director misstated the requirements for adjustment of status under the LIFE Act and mistakenly indicated the applicant stated she did not enter the United States until January 18, 1988, as addressed above.

In summary, the applicant has provided contemporaneous evidence of residence in the United States during the requisite period that is inconsistent with the information provided on Form I-687. She has also submitted declarations and affidavits that do not conform to regulatory standards, lack sufficient detail, or fail to confirm she resided in the United States during the requisite period. Specifically, the declaration from Ms. [REDACTED] does not conform to regulatory standards, the affidavits from [REDACTED] and [REDACTED] lack sufficient detail, and the declaration from Ms. [REDACTED] does not confirm

the applicant resided in the United States during the requisite period. Lastly, the declaration from Mr. [REDACTED] does not confirm the applicant resided in the United States beyond 1982.

The absence of sufficiently detailed and consistent supporting documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of this claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the contradictory statements contained in the applicant's I-687 application and supporting documentation, and given the applicant's reliance upon documents with minimal probative value, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through the date he attempted to file a Form I-687 application as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

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