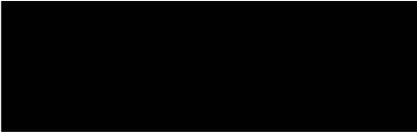




U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy



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FILE:   
MSC 02 136 60485

Office: Dallas

Date: FEB 05 2007

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. 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, Dallas, Texas and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

The district director concluded that the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, and, therefore denied the application.

On appeal, counsel asserts that the applicant has submitted sufficient documentation to the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) establishing her continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel contends that the evidence provided by the applicant is reliable, credible, and more than adequate to meet her burden of proof in these proceedings.

An applicant for permanent resident status 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. *See* § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b).

Although the regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act) on June 8, 1990. In an attempt to establish continuous unlawful residence since before January 1, 1982, the applicant furnished an employment affidavit and five affidavits of residence.

The record shows that the applicant subsequently filed the Form I-485 LIFE Act application with the Service on February 13, 2002. In support of her claim of residence in this country since prior to January 1, 1982, the applicant included copies of previously submitted documentation and two new affidavits of residence.

On March 1, 2004, the district director issued a notice of intent to deny to the applicant informing her of the CIS' intent to deny her application because she failed to submit any evidence of continuous unlawful residence in the United States from January 1, 1982 through May 4, 1988. However, as noted above, the applicant did in fact submit an employment affidavit and seven affidavits of residence in support of her claim of residence in this country for the requisite period. Pursuant to *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989), affidavits in certain cases *can* effectively meet the preponderance of evidence standard, and the district director cannot disregard and must consider such evidence whether or not it is unaccompanied by other forms of documentation. Therefore, the district director's conclusions regarding the credibility of the applicant's claim of residence and the sufficiency of her supporting documentation as expressed in the notice of intent must be considered as an inadequate basis to deny the application.

The case will be remanded to allow the district director to review all of the applicant's evidence of residence for the requisite period including the evidence relating to her absences from this country during the period in question and make a determination as to the sufficiency of such evidence. If it is determined that the applicant's evidence is insufficient to demonstrate that she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, the district director shall issue a new notice of intent citing the deficiencies in the evidence shall be issued to the applicant and counsel prior to the entering of a new decision. 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.