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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: [REDACTED]
MSC 01 307 60303

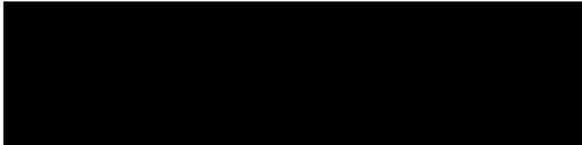
Office: LOS ANGELES

Date: JUL 06 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:



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.

A handwritten signature in black ink, appearing to be "R. P. Wiemann".

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, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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.

On appeal, counsel states that the applicant submitted credible testimony and supporting affidavits to establish his continued residency and physical presence in the United States during the required period. Counsel submits a brief in support of the appeal.

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. Section 1104(c)(2)(B) of the LIFE Act; 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 and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

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 applicant 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.

Although Citizenship and Immigration Services (CIS) 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

On a form to determine class membership, which he signed under penalty of perjury, the applicant stated that he first arrived in the United States on February 15, 1981, when he entered without inspection. On his Form I-687, Application for Status as a Temporary Resident, which he also signed under penalty of perjury on April 10, 1990, the applicant stated that he lived at [REDACTED] in Northridge, California from February 1981 to October 1986, and at [REDACTED] Los Angeles, California from October 1986 to August 1989. The applicant also stated that he worked in construction during the

qualifying period. The applicant did not specify an employer for whom he worked, but indicated that he worked at 18401 Malder Estate, # 12 in Northridge from February 1981 to July 1987, and at 7939 Reseda (no city given) from July 1986 to the date that he signed the Form I-687 application.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. A purchaser's copy of a Continental Express money order with the applicant's name and an address of [REDACTED] in Northridge. The date of the receipt is August 10, 1980; however, this date has been altered from 1990. Further, the date on the document is prior to the date the applicant stated that he first arrived in the United States. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).
2. A copy of a January 5, 2000 statement from [REDACTED], in which he stated, "As owner of the building at [REDACTED] [the applicant] lived at this building in apartment 126 from 1982 to 1984." [REDACTED] did not identify the city in which the apartment building was located. The applicant, however, stated that he lived at [REDACTED] in Northridge, California during this period. *Id.*
3. A purchaser's copy of a Continental Express money order with the applicant's name and an address of [REDACTED] in Northridge. The date of the document is August 23, 1982; however, the date appears to have been altered. Further, the applicant did not claim to have lived at this address in 1986. However, he did list his address as [REDACTED] in Northridge on his Form I-687 application in 1990.
4. A copy of an April 20, 2001 letter from [REDACTED] in which he stated that he had known the applicant since 1983. [REDACTED] did not indicate the circumstances surrounding his initial acquaintance with the applicant, or that the applicant resided in the United States during the period of their relationship.
5. A purchaser's copy of a Continental Express money order with the applicant's name and an address on [REDACTED] in Northridge. The date of the document is shown as February 20, 1986; however, the date appears to have been altered. Further, the applicant did not claim to have lived at this address in 1986. However, he did list his address, beginning in August 1989, as [REDACTED] in Northridge on his Form I-687 application in 1990.
6. An April 10, 1990 affidavit from [REDACTED] in which he stated that the applicant left the United States in February 1987 and returned the same month. The affiant also stated that the applicant had lived in Canoga Park until the date of the affidavit. However, [REDACTED] statement regarding the beginning date of the applicant's residence in Canoga Park is unclear. Nonetheless, the applicant did not claim to have lived in Canoga Park at any time during the requisite period.
7. An envelope showing the applicant as the sender with an address of [REDACTED] in Northridge, California. The postmark shows a date of April 4, 1988. The applicant stated on his Form I-687

application that he lived at [REDACTED] in Los Angeles at this time. The applicant submitted no documentation to resolve this inconsistency. See *Matter of Ho*, 19 I&N Dec. at 591.

8. A soccer player's identification card for the applicant. The effective beginning date of the card is not shown; however, the ending period is shown as 1988. There is no evidence as to when this card was issued.

In response to the director's Notice of Intent to Deny (NOID) dated November 8, 2004, the applicant submitted the following documentation:

9. A November 19, 2003 letter from [REDACTED] in which he certified that the applicant worked for his company from 1982 to 1987. The letterhead indicated the company's address as [REDACTED] in Murrieta, California. [REDACTED] did not indicate the source of the information regarding the applicant's employment or the applicant's address at the time of his employment. 8 C.F.R. § 245a.2(d)(3)(i). Furthermore, the applicant did not list McClung Construction, Inc. as one of his employers during the qualifying period and stated that he worked at 18401 Malder Estate, # 12 in Northridge.

10. A December 7, 2004 sworn declaration from [REDACTED], the applicant's sister-in-law, who stated that she was the manager of the Beacon Apartments in Los Angeles, California. Ms. [REDACTED] stated that the applicant arrived in the United States in 1980, and that she established this date based on the birth of her child in that year. [REDACTED] further stated that the applicant lived at the Beacon Apartments with [REDACTED], and lived there for approximately one year before he moved to Northridge, where he lived for six to seven years. This information is inconsistent with the applicant's own statement, however, that he arrived in the United States in 1981 and lived at [REDACTED] in Northridge, California from February 1981 to October 1986, and at [REDACTED] Los Angeles, California from October 1986 to August 1989.

[REDACTED] further stated that the applicant worked at a temporary job at Slater Enterprises, "the company that managed and owned Beacon Apartments," for about two months and then "started doing ready labor jobs" for approximately a year and a half. She stated that he then began working for a construction company. As discussed previously, the applicant did not identify any specific employer for whom he worked during the requisite period. We note that [REDACTED] stated that he owned the apartment building at [REDACTED], but did not indicate that the building was owned and managed by his company. A business card included with Mr. [REDACTED] letter indicated that he was president of The Home Craftsman, a company in Pasadena, California.

11. A December 12, 2004 sworn declaration from [REDACTED] in which he stated that he is married to the applicant's sister-in-law. The declarant stated that he met the applicant in May 1983, the same time that he met his wife. [REDACTED] stated that the applicant lived at the Beacon Apartments with [REDACTED], and also "had another apartment at Northridge." This information is inconsistent with that provided by [REDACTED] who stated that the applicant lived with [REDACTED] at the Beacon Apartments, and moved to Northridge approximately a year later.

On appeal, counsel asserts that the applicant initially entered the United States in 1980 and, except for brief absences, has been in continued residency since that time. Counsel further asserts that the applicant has provided credible evidence, through affidavits and his statements during his LIFE Act adjustment interview, to establish his eligibility for the adjustment of status under the LIFE Act. Counsel asserts that the director failed to carefully analyze the applicant's supporting affidavits, which are detailed and present a "plausible explanation" for the inconsistencies regarding his residences. Counsel references the declaration of the applicant's sister-in-law, [REDACTED] who counsel alleges stated that the applicant lived in an apartment complex in Northridge from 1981 to approximately 1986 or 1987, and the declaration of [REDACTED] who stated that the applicant lived at a Northridge apartment complex.

However, these statements do not support counsel's interpretation, and are inconsistent with the applicant's statement as well as with each other. Further, the unsupported statements of these individuals do not constitute competent objective evidence to resolve the inconsistencies in the record. *See Matter of Ho*, 19 I&N Dec. at 591. The applicant submitted no documentation to corroborate his residence at any location during the requisite period. Additionally, to establish his presence and continued residence in the United States during the required period, the applicant submitted money order receipts that had been altered to reflect an earlier date. The applicant submitted no competent contemporaneous evidence of his residency in the United States during the requisite period.

Accordingly, the applicant has failed to establish continuous residence in the U.S. from prior to January 1, 1982 through May 4, 1988.

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

[REDACTED]