

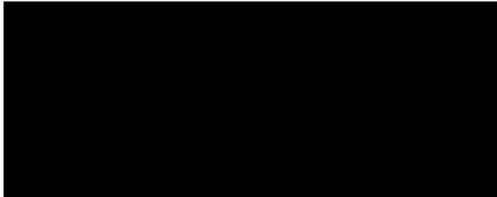
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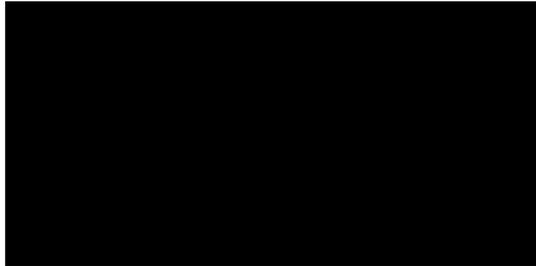
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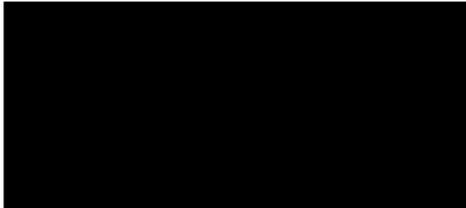
NOV 01 2007

IN RE: Applicant:



PETITION: 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 read "R. 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 Interim 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 denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. Specifically, the district director found that the applicant had not established by a preponderance of the evidence that he has resided in the United States for the requisite periods.

On appeal, counsel states that the applicant provided sufficient documentary evidence, including affidavits and employment letters, to support a finding that he resided in the United States in continuous unlawful status during the requisite period. The AAO notes that the record contains the following evidence:

1. Affidavit from [REDACTED] dated August 21, 1990 stating that he has known the applicant from March 1982 to August 21, 1990.
2. Affidavit from [REDACTED] dated April 19, 1990 which states that the applicant worked for her as a laborer from July 1981 through August 30, 1982, and again from December 5, 1984 to the date of the execution of the affidavit.
3. Affidavit from [REDACTED] dated August 19, 1990, claiming that she was the applicant's landlord and that he rented a room in her duplex from December 1981 to January 1990 for a rate of \$25.00 per week.
4. Affidavit from [REDACTED] dated August 14, 1990, claiming that the applicant worked at Prestonwood Golf Course from September 5, 1982 through November 30, 1984.
5. Letter from [REDACTED] of Prestonwood Country Club, dated April 5, 1990, claiming that two people using the name [REDACTED] were employed by the club in 1982.

Upon review, the documentation submitted appears insufficient to establish that the applicant resided in continuous unlawful status from before January 1, 1982 through May 4, 1988. In addition, it does not appear that the applicant has sufficiently demonstrated that he was continuously physically present in the United States during the period beginning on November 6, 1986 and ending on May 4, 1988.

While there is no specific regulation which governs what third party individual affidavits should contain to be of sufficient probative value, the regulations do set forth the elements which affidavits from organizations are to include. 8 C.F.R. § 245a.2(d)(3). These guidelines provide a basis for a flexible standard of the information which an affidavit should contain in order to render it probative for the purpose of comparison with the other evidence of record.

According to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3), a signed attestation should contain (1) an identification of the applicant by name; (2) the dates of the applicant's continuous residence to which the affiant can personally attest; (3) the address(es) where the applicant resided throughout the period which the affiant has known the applicant; (4) the basis for the affiant's acquaintance with the applicant; (5) the means by which the affiant may be contacted; and, (6) the origin of the information being attested to. *See* 8 C.F.R. § 245a.2(d)(3)(v). The affidavits contained in the record contain minimal evidence and omit many of the above-referenced elements, such as the origin of the information being attested to and the address of the applicant at the time(s) referred to in the affidavits.

The regulations at 8 C.F.R. § 245a.20(a)(2) state, in pertinent part:

*Denials.* The alien shall be notified in writing of the decision of denial and of the reason(s) therefore. When an adverse decision is proposed, CIS shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted a period of 30 days from the date of the notice in which to respond to the notice of intent to deny. All relevant material will be considered in making a final decision.

A thorough review of the applicant's file confirms that the applicant was not issued of a notice of intent to deny prior to adjudication of the application. Accordingly, the decision of the director is withdrawn. The case will be remanded for the purpose of the issuance of a new notice of intent to deny as well as a new final decision to both the applicant and counsel. The new decision, if adverse to the applicant, shall be certified to this office for review.

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