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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 249 63999

Office: NEW YORK

Date: DEC 31 2008

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. The file has been returned to the National Benefits Center. 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 "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: On March 5, 2007, the District Director, New York, New York, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding that the applicant is statutorily ineligible to adjust status to lawful permanent residence under section 1104 of the LIFE Act because she properly filed an application under the Immigration Reform and Control Act of 1986 (IRCA) during the statutory time period. The director found that the IRCA application was denied on January 22, 1990, the applicant appealed the decision, and the AAO dismissed the appeal on September 21, 1993.

On appeal, the applicant does not address the director's basis for denial, and instead asserts that the interviewing officer second-guessed the validity of two Forms N-648, Medical Certifications for Disability Exceptions, submitted on her behalf.

A LIFE Act applicant must establish that, before October 1, 2000, he or she was a class member in a legalization class-action lawsuit. *See* 8 C.F.R. § 245a.14. In this case there is no such evidence in the record. In fact, there is evidence that the applicant was not a class member. Class members are, by definition, individuals who were turned away or discouraged from filing a Form I-687 application during the original legalization application period of May 5, 1987 to May 4, 1988. *See Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements). In this case, the applicant was not turned away or discouraged from applying. To the contrary, she timely filed a Form I-687 application, and was denied temporary resident status on January 22, 1990. She appealed the decision and the AAO dismissed the appeal on September 21, 1993. In light of this evidence, the applicant would be ineligible to adjust status under section 1104 of the LIFE Act. Therefore, the director's decision to deny the application on this ground will be affirmed.

ORDER: The appeal is dismissed.