



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
MSC 03 179 62320

Office: Chicago, Illinois

Date: JAN 22 2008

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

The district director determined that the applicant had failed to establish residence in the United States in an unlawful status from a date prior to January 1, 1982 through May 4, 1988. Thus, the director denied the application.

On appeal, counsel asserts that the applicant has submitted to Citizenship and Immigration Services (CIS) sufficient evidence in support of his claim of residence in this country during the statutory period. Counsel includes copies of previously submitted documentation in support of the appeal.

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) therefor. 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. If inconsistencies are found between information submitted with the adjustment application and information previously furnished by the alien to [CIS], the alien shall be afforded the opportunity to explain discrepancies or rebut any adverse information.

A review of both the electronic and administrative record reveals that a notice of intent to deny was never issued to either counsel or the applicant.<sup>1</sup> Accordingly, the decision of the district director is withdrawn. The case will be remanded for the purpose of the issuance of a notice of intent to deny, which addresses the all the evidence in the record and specifies why it is insufficient, as well as a new decision to both counsel and the applicant. 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.

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<sup>1</sup> The director issued a Notice to Deny dated May 3, 2005. As pointed out by counsel on appeal, in one section of this denial, the director used language which suggested that the document was a notice of intent to deny. However, the director titled the document a notice to deny and informed the applicant that the application was being denied. The director did not issue any additional notice to deny, and the applicant submitted a timely appeal of the May 3, 2005 denial to this office. Thus, this office will treat the document dated May 3, 2005 as a notice to deny.