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U.S. Citizenship
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FILE:

MSC 01 355 61594

Office: NEW YORK

Date:

MAY 30 2008

IN RE: Applicant:

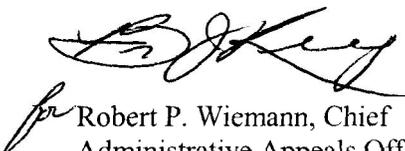


APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.


for 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 (director) in New York City. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application because the applicant failed to establish that she satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act.

On appeal the applicant asserts that she has been taking English language and U.S. history and government classes since 2003, and requests that her application for LIFE legalization be reconsidered.

Under section 1104(c)(2)(E)(i) of the LIFE Act, regarding basic citizenship skills, an applicant for permanent resident status must demonstrate that he or she:

- (I) meets the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a))(relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or
- (II) is satisfactorily pursuing a course of study (recognized by the [Secretary of Homeland Security]) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

Under section 1104(c)(2)(E)(ii) of the LIFE Act, the Secretary of Homeland Security may waive all or part of the above requirements for aliens who are at least 65 years of age or who are developmentally disabled. *See also* 8 C.F.R. § 245a.17(c).

An applicant may establish that he or she has met the requirements of section 312(a) of the Immigration and Nationality Act (Act) by demonstrating an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language, and by demonstrating a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States. *See* 8 C.F.R. § 245a.17(a)(1) and 8 C.F.R. §§ 312.1 – 312.3.

An applicant may also establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by providing a high school diploma or general educational development diploma (GED) from a school in the United States. *See* 8 C.F.R. § 245a.17(a)(2). The high school or GED diploma may be submitted either at the time of filing the Form I-485 LIFE Act application, subsequent to filing the application but prior to the interview, or at the time of the interview. *Id.*

Finally, an applicant may establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by establishing that:

He or she has attended, or is attending, a state recognized, accredited learning institution in the United States, and that institution certifies such attendance. The course of study at such learning institution must be for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) and the curriculum must include at least 40 hours of instruction in English and United States history and government. The applicant may submit certification on letterhead stationery from a state recognized, accredited learning institution either at the time of filing Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview (the applicant's name and A-number must appear on any such evidence submitted).

8 C.F.R. § 245a.17(a)(3).

An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the initial LIFE interview shall be afforded a second opportunity after six months (or earlier at the request of the applicant) to pass the required tests or to submit the evidence described above. *See* 8 C.F.R. § 245a.17(b).

On September 20, 2001 the applicant, a native of the Dominican Republic, filed her Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act.

On February 27, 2002 the applicant was interviewed for LIFE legalization. She failed to demonstrate a basic understanding of ordinary English and a basic knowledge of U.S. history and government during the examination portion of the interview.

At her second interview for LIFE legalization, on August 30, 2006, the applicant again failed to pass the test of her English language ability.

On the same day, August 30, 2006, the director issued a Notice of Decision denying the application on the ground that the applicant had twice failed the examination of her "basic citizenship skills," and was therefore ineligible for permanent resident status under the LIFE Act.

On appeal the applicant asserts that she has been taking classes since October 2003 to improve her knowledge of the English language and U.S. history and government. As evidence thereof she submits a letter co-signed by the director and the manager of "USA Language Center, Inc." in New York City, dated September 12, 2006, stating that the applicant had been a student since October 20, 2003, and was currently attending classes Monday through Friday from 7:00 p.m. to 8:00 p.m. The applicant requested that she be reconsidered for LIFE legalization.

The letter from "USA Language Center, Inc." is not persuasive evidence that the applicant satisfies the basic citizenship skills requirement under 8 C.F.R. § 245a.17(a)(3). The letter does not comport with the requirements of 8 C.F.R. § 245a.17(a)(3) because it was not submitted at or before the

applicant's second interview on August 30, 2006, does not state that the USA Language Center, Inc. is a state recognized, accredited learning institution, and does not indicate that the applicant was enrolled in a course of study for one academic year with a curriculum including at least 40 hours of instruction in English and U.S. history and government. In fact, the letter does not provide any information about the content of the applicant's classes. Finally, the applicant's A-number does not appear on the letter.

Thus, the applicant has not satisfied the basic citizenship skills for LIFE legalization under any of the three options set forth in the regulations. She did not pass either of her examinations of basic English language ability and knowledge of U.S. history and government, as required under 8 C.F.R. § 245a.17(a)(1). She did not provide a high school diploma or GED from a school in the United States, as required under 8 C.F.R. § 245a.17(a)(2). Nor did the applicant show at the time of her second interview, on August 30, 2006, that she had attended, or was attending, a state recognized, accredited learning institution in the United States, following a course of study which spans one academic year and that includes 40 hours of instruction in English and United States history and government, as required under 8 C.F.R. § 245a.17(a)(3).

The applicant is not 65 years old or older and there is no evidence in the record that she is developmentally disabled. Thus, the applicant does not qualify for either of the exceptions listed in section 1104(c)(2)(E)(ii) of the LIFE Act.

The applicant has failed to demonstrate that she has met the basic citizenship skills requirement as described at 1104(c)(2)(E) of the LIFE Act. Accordingly, she is not eligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

The appeal will be dismissed, and the application denied.

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