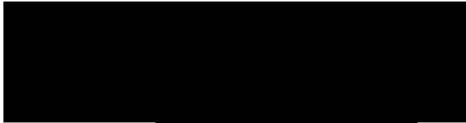


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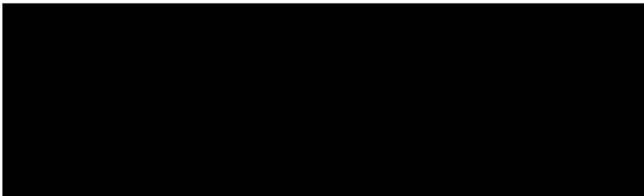
Office: HOUSTON

Date: **SEP 02 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:



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.

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, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant had failed to demonstrate her understanding of English as required under section 1104(c)(2)(E) of the LIFE Act.

On appeal, counsel for the applicant asserts that the applicant has enrolled in a course of study at a learning institution, and therefore, she satisfies the citizenship skills requirements under 8 C.F.R. § 245a.17(a). With the appeal, counsel submits additional evidence.

In a July 22, 2006 notice of intent to deny (NOID) the director stated that the applicant appeared for two interviews, on July 15, 2004, and on November 23, 2005. At the first interview, the applicant failed the tests on U.S. history and government tests, and although the applicant was able to write a sentence, she did not understand sufficient English to conduct the interview. At the second interview, the applicant successfully passed the history and government test, however, she did not understand sufficient English to conduct the interview. The director, therefore, notified the applicant that she had failed to demonstrate her understanding of English and the Service record did not reflect that she was eligible for the English and History exemption. The director granted the applicant thirty (30) days to submit additional evidence.

In response to the NOID the applicant submitted a payment statement indicating her enrollment in a 48 unit hour course in the Houston Community College System from August 7, 2006 through August 31, 2006. The director, however, determined that the applicant had failed to demonstrate her understanding of English as stated in the NOID. Therefore, on September 27, 2006, the director denied the application.

On appeal, as evidence of the applicant's eligibility, counsel submits the following Certificates of Completion:

1. An August 31, 2006 certificate, from the Houston Community College System, indicating satisfactory completion of 48 contact hours – 4.8 CEV's: Communications Improvement I; ESL I – English as a Second Language; U.S. History and Government.
2. A certificate signed by [REDACTED] granted on December 11, 2003, indicating satisfactory completion of "ESL I". It is noted the certificate cannot be verified as it does not identify an issuing authority, or an address, telephone number, or other contact information.
3. Three certificates, dated December 11, 2003, December 9, 2004, and May 31, 2004, respectively, signed by [REDACTED], Director of AAMA Adelante, indicating satisfactory completion of "ESL I".
4. A certificate, dated December 12, 2003, signed by [REDACTED] Director of AAMA Adelante, indicating satisfactory completion of "Basic Computer Skills "Word I".

In addition, counsel submits an affidavit from the applicant, notarized on October 26, 2006, stating that she enrolled in a class at a community college near her home. However, the class was canceled because of insufficient enrollment, and that she planned on registering in the next semester. No additional evidence was submitted on appeal.

Under section 1104(c)(2)(E)(i) of the LIFE Act (“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 Attorney General) 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 Attorney General may waive all or part of the requirements for aliens who are at least 65 years of age or developmentally disabled.

The applicant, who is neither 65 years old nor developmentally disabled, does not qualify for either of the exceptions in section 1104(c)(2)(E)(ii) of the LIFE Act. Nor does she satisfy the “basic citizenship skills” requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because she does not meet the requirements of section 312(a) of the Immigration and Nationality Act (Act). An applicant can demonstrate that he or she meets the requirements of section 312(a) of the Act by “[s]peaking and understanding English during the course of the interview for permanent resident status” and answering questions based on the subject matter of approved citizenship training materials, or [b]y passing a standardized section 312 test . . . by the Legalization Assistance Board with the Educational Testing Service (ETS) or the California State Department of Education with the Comprehensive Adult Student Assessment System (CASAS).” 8 C.F.R. §§ 245a.3(b)(4)(iii)(A)(1) and (2).

In the alternative, an applicant can satisfy the basic citizenship skills requirement by demonstrating compliance with section 1104(c)(2)(E)(i)(II) of the LIFE Act. The “citizenship skills” requirement of the section 1104(c)(2)(E)(i)(II) is defined by regulation in 8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3). As specified therein, an applicant for LIFE Legalization must establish that:

He or she has a high school diploma or general education development diploma (GED) from a school in the United States . . . 8 C.F.R. § 245a.17(a)(2), or

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 . . . . 8 C.F.R. § 245a.17(a)(3).

Both 8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3) specify that applicants must submit evidence to show compliance with the basic citizenship skills requirement “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 regulation at 8 C.F.R. § 245a.17(b) states that:

An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the interview, shall be afforded a second opportunity after 6 months (or earlier at the request of the applicant) to pass the tests or submit evidence as described in paragraphs (a)(2) and (a)(3) of this section [8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3)]. The second interview shall be conducted prior to the denial of the application for permanent residence and may be based solely on the failure to pass the basic citizenship skills requirements.

Pursuant to 8 C.F.R. § 245a.17(b), the applicant was interviewed on two occasions in connection with her LIFE Act application, on July 15, 2004, and again on November 23, 2005. However, at both interviews the applicant failed to demonstrate a minimal understanding of English. The applicant does not dispute this on appeal. The applicant did not provide evidence of having passed a standardized citizenship test, as permitted by 8 C.F.R. § 312.3(a)(1). The applicant does not have a high school diploma or a GED from a United States school, and therefore does not satisfy the regulatory requirement of 8 C.F.R. § 245a.17(a)(2).

As noted above, on appeal, the applicant submitted a certificate of completion from the Houston Community College System, indicating satisfactory completion of 48 contact hours – 4.8 CEV’s: Communications Improvement I; ESL I – English as a Second Language. However, there is no evidence that the course(s) offered by the Houston Community College satisfies the “basic citizenship skills” requirement. **The applicant also submitted a certificate from [REDACTED], and three certificates from [REDACTED], of AAMA Adelante, indicating completion of ESL – I. The certificate from [REDACTED] cannot be verified as it does not indicate a named issuing institution, or an address, telephone number, or other contact information. Also, there is no evidence that the course(s) offered by the AAMA Adelante satisfies the “basic citizenship skills” requirement. The certificate issued for satisfactory completion of “Basic Computer Skills “Word I,” is not probative as it is not relevant to the basic skills requirements.**

Contrary to counsel's assertion, the applicant has not provided evidence that she has attended or is attending a course of study at any of these institutions for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) as required under the provisions of 8 C.F.R. § 245a.17(a)(3). The applicant submitted an affidavit, notarized on October 26, 2006, stating that she intends on enrolling in a community college course. The record, however, does not indicate evidence of enrollment in a course that satisfies the requirements under 8 C.F.R. § 245a.17(a).

Therefore, the applicant does not satisfy either alternative of the "basic citizenship skills" requirement set forth in section 1104(c)(2)(E)(i) of the LIFE Act. Accordingly, the AAO will not disturb the director's decision that the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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