U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: Los Angeles Date: OCT 20 2004

IN RE: Applicant: [redacted]

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: Self-represented

PUBLIC COPY

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, Director
Administrative Appeals Office

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DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

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.

On appeal, the applicant reaffirms his claim to continuous residence in the U.S. during the period in question, while noting the difficulty involved in attempting to obtain evidence of residence in the U.S. from more than twenty years ago.

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a *preponderance of the evidence* that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is *probably* true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989). Preponderance of the evidence has also been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5th ed. 1979).

The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished the following evidence:

- An affidavit from [redacted] who attests to the applicant having resided in Los Angeles, California since November 12, 1981. The affiant bases her knowledge on having been a neighbor of the applicant;

- An affidavit from [redacted] who attests to the applicant having departed the U.S. for Mexico on November 1, 1987. She bases her knowledge on having given the applicant a ride to Tijuana, Mexico on that occasion;

- An affidavit from [redacted] attesting to the applicant having resided in Los Angeles, California, since November 1981. The affiant bases her knowledge on having been a friend of the applicant;

- An affidavit from who attests to the applicant having resided at the affiant's place of residence in Los Angles, California from November 12, 1981 to March 28, 1989;

- An affidavit from who attests to the applicant having resided in Los Angeles, California since November 1981. The affiant bases her knowledge on having met the applicant through her cousin;

- An affidavit from who attests to the applicant having resided in Los Angeles, California, since November 1981. The affiant bases her knowledge on having met the applicant at a friend's house;

- An employment affidavit from who attests to having employed the applicant as a gardener's helper from June 1985 to July 1989;

- An employment affidavit from who attests to having employed the applicant as a construction helper from November 1981 to May 1985;

- Photocopied customer receipts made out to the applicant from International Immigration, Inc., Huntington Park, California, dated October 14, 1982, December 15, 1982, February 14, 1983, March 10, 1983, and August 20, 1984, respectively;

- A photocopy of a June 2, 1982 customer receipt from Tom's Hardware made out to the applicant; and

- A photocopy of a May 20, 1983 customer receipt from A.B.C. Shoes, Inc., which is made out to the applicant;

In this instance, the applicant submitted at least seven affidavits attesting to his residence as well as his employment in the U.S. during the period in question. The director has not established that the information in the affidavits was inconsistent with the claims made on the application, or that it was false information. Affidavits in certain cases can effectively meet the preponderance of evidence standard. As stated on *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished, including affidavits submitted by employers as well as acquaintances, many of whom are willing to testify in this matter, may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

It should also be noted that, unlike many applicants for permanent residence under the LIFE program, the present applicant has actually provided considerable contemporaneous evidence of residence consisting of photocopies of customer receipts, all of which carry dates which fall during the period in question.

The affidavits provided by the applicant, along with considerable contemporaneous evidence, support by a preponderance of the evidence that the applicant satisfies the statutory and regulatory criteria of entry into the

United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.