U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: Milwaukee Date: OCT 27 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:

[redacted]

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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Interim 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 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, counsel asserts that the applicant never received the notice of intent to deny issued by the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services or CIS) on May 3, 2003. Counsel states that the applicant had previously submitted additional evidence in support of his claim of residence that had not been considered by the Service before the notice of intent to deny was issued. Counsel contends that she subsequently visited the Service's District Office in Milwaukee, Wisconsin on July 23, 2003, in order to submit a written inquiry specifically requesting that the notice of intent to deny be provided to the applicant.

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) therefore. 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.

Although a notice of intent to deny was sent to the applicant, a review of the record reveals that the notice had been returned by the United States Postal Service marked as "return for postage" because the required postage for mailing the notice had not been affixed to the envelope. Accordingly, the decision of the director is withdrawn. The case will be remanded for the purpose of the issuance of a new notice of intent to deny as well as a new decision to both the applicant and counsel. 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.