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**U.S. Citizenship
and Immigration
Services**

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FILE: [Redacted]

Office: LOS ANGELES

Date: **AUG 22 2005**

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: Self-represented

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. Any further inquiry must be made to that office.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office 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 asserts that he entered the United States prior to January 1, 1982, and has resided continuously through May 4, 1988.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3. As such, the documentation submitted throughout the application process will be considered on appeal.

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. 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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

Although the regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence throughout the application process:

- A PS Form 3806, receipt for registered mail postmarked March 4, 1986.
- Two receipt dated July 16, 1983 and December 16, 1985 from Lee's in San Fernando, California
- Rent receipts from AOA Property Management in Van Nuys, California dated January 1, 1986, June 1, 1986 and December 1, 1986.
- Two revolving charge agreements from McMahan's Furniture Store in San Fernando, California dated December 2, 1982 and May 15, 1986.

- An auto repair order receipt dated June 6, 1986 from Valley Carburetor Co. in Pacoima, California.
- A receipt dated August 18, 1982 from Osborn & San Fernando Smog Services in Pacoima, California.
- A lifetime warranty receipt dated December 26, 1981 from Soil Shield International.
- A receipt dated July 21, 1981 from Discoteca y Electronica Mexico in San Fernando, California.

The applicant also submitted several documents that do not list his name or the date they were issued and, therefore, they cannot be considered as evidence to establish his residence in the United States. The wage and tax statement from Morrison Inc. cannot be considered evidence of the applicant's residence during the requisite period as the applicant's employment commenced in October 1988.

The director, in her Notice of Intent to Deny indicated that the applicant had presented a receipt for McMahan's Furniture dated 1986, but "had a revision date of 1996." A review of the documentation from McMahan's Furniture, however, does not support the director's findings.

In this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate his claim of residence in the United States during the requisite period. The district director has not established that the information in this evidence was inconsistent with the claims made on the application, or that it was false information. 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 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.

The documentation provided by the applicant supports 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.