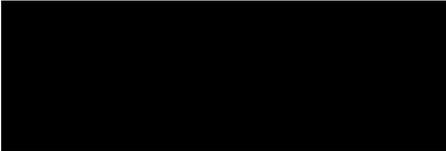


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FILE:



Office: LOS ANGELES

Date: **AUG 23 2005**

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. 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, 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 has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel provides additional affidavits from acquaintances in support of the appeal.

It is noted that the director, in denying the application, did not address the evidence furnished initially, 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:

- An employment letter notarized April 1, 1995 from [REDACTED] who indicated that the applicant was in his employ as a landscaper from 1981 to May 1989. Mr. [REDACTED] listed the applicant's address as [REDACTED] Los Angeles, California.
- An additional affidavit notarized January 12, 2002 from [REDACTED] reiterating his initial letter.
- An affidavit notarized February 25, 1995 from Benigno [REDACTED] who indicated that the applicant resided at his home, [REDACTED] Los Angeles, California from August 1981 to May 1989.

- An additional affidavit notarized April 23, 2002 from [REDACTED] reiterating his initial affidavit. Mr. [REDACTED] indicated that all utility bills were issued in his name as the applicant had no credit.
- An affidavit from [REDACTED] who indicated that he had known the applicant since 1981 and has remain good friends with the applicant since that time.
- An affidavit from [REDACTED] who indicated that she has known the applicant since 1981. M [REDACTED] asserted that she met the applicant at church.
- An affidavit from [REDACTED] who indicated that he has known the applicant since 1981. He states that he met the applicant through his aunt, [REDACTED]
- An affidavit from [REDACTED] who indicated that he has known the applicant since 1981. He met the applicant through his neighbor.
- An affidavit from [REDACTED] who states that she met the applicant at a party in 1981.

The director, in her Notice of Intent to Deny dated June 9, 2004, informed the applicant that there were inconsistencies regarding his residences listed in the affidavits from Mr. [REDACTED] and Mr. [REDACTED]

A review of the record, however, does not reveal any inconsistencies as Mr. [REDACTED] listed the applicant's *current* address at the time his affidavit was notarized. Moreover, the addresses are in such close proximity to each other that it does not raise significant issue to the legitimacy of the applicant's employment.

In this instance, the applicant submitted evidence which tends to corroborate his claim of residence in the United States during the requisite period. It is noted that the applicant was approximately 13 years of age when he came to the United States. The lack of contemporaneous documents is therefore not found to be unusual. 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.