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U.S. Department of Homeland Security  
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Washington, D.C. 20529



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

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FILE: [REDACTED] Office: SEATTLE Date: **FEB 23 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.

A handwritten signature in black ink, appearing to read "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, Seattle, Washington, 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 addresses the issue regarding his residence subsequent to requisite period, and provides additional documentation to establish an affiant's residence in the United States.

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 notarized affidavit from [REDACTED] who indicated that the applicant resided with him in Fremont, California from January 1981 through July 1984.
- A notarized affidavit from [REDACTED] who indicated that he has known the applicant since 1981 and that the applicant resided with him in San Jose, California from August 1984 through November 1987.
- A notarized affidavit from [REDACTED] who indicated that he has known the applicant since 1987 as he was at the San Francisco Office when the applicant attempted to file his application in October 1987.
- A notarized affidavit from [REDACTED] who indicated that the applicant resided with him in Fremont, California from December 1987 through February 1991.

The record includes a California Identification Card (ID) issued in August, 1991, which listed an address that the district director indicated was never mentioned on the applicant's LIFE or Form I-687 applications. The director

determined that because the California ID was issued at the time the applicant claimed to have been residing in the State of Washington, it undermines the credibility of [REDACTED] affidavit. Mr. [REDACTED] indicated in his affidavit that the applicant has been residing with him in Kent, Washington since February 1991. On appeal, the applicant asserted that the State of Washington refused to issue him an ID card without three picture IDs, therefore he returned to California as he was informed that "California is very relaxed to issue ther [sic] ID." Upon presenting his California ID card, he was given a Washington ID card.

The director also determined that [REDACTED] failed to provide documentation showing that he had the ability to offer credible verifiable testimony on the applicant's behalf. On appeal, the applicant presented a bank statement and tax documents establishing [REDACTED] residence in San Jose, California during 1985 through 1988.

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.