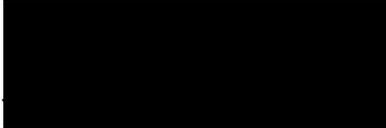


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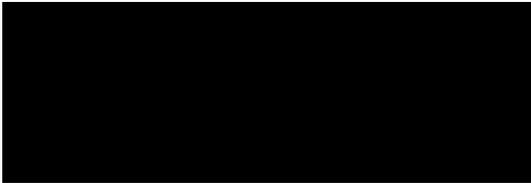
Applicant:



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:



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, Houston, Texas, 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 before January 1, 1982 through May 4, 1988.

On appeal, counsel submits copies of documents previously provided along with additional documentation in an effort to establish the applicant's continuous residence in the United States since before January 1, 1982 through May 4, 1988.

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 was employed at [REDACTED] in Dallas, Texas as a painter from December 31, 1981 through August 25, 1987.
- A notarized affidavit from [REDACTED] of [REDACTED] in Blueridge, Texas who indicated that the applicant has been in his employ as a laborer since September 1, 1987.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Dallas, Texas since December 20, 1981. [REDACTED] based his knowledge on having been a friend with the applicant since that time.
- A notarized affidavit from [REDACTED] who attested to the applicant's presence in Dallas, Texas since December 1981.

- A notarized affidavit from [REDACTED] who attested to the applicant's residence in the United States since December 1981 [REDACTED] based her knowledge on having been a co-worker and good friends with the applicant since that time.
- A notarized affidavit from [REDACTED] who indicated that he has known the applicant from 1983 through 1988.
- A notarized affidavit from [REDACTED] who indicated that the applicant resided with him from October 1986 through March 1988.
- A notarized affidavit from [REDACTED] who indicated that the applicant resided with him from January 9, 1981 through November 8, 1985.
- A notarized affidavit from [REDACTED] who indicated that she has known the applicant from 1983 through 1987.
- A notarized affidavit from [REDACTED] who indicated that he has known the applicant from 1981 through 1989.
- A notarized affidavit from [REDACTED] who indicated that he has known the applicant from 1981 through 1986.
- A notarized affidavit from [REDACTED] who indicated that he has known the applicant from 1984 through 1988.
- A notarized affidavit from [REDACTED] who indicated that she has known the applicant from 1984 through 1987.

The affidavit from [REDACTED] has little probative value or evidentiary weight as the applicant indicated that he did not enter the United States until December 1981.

On November 16, 2002, the district director requested that the applicant submit an Itemized Statement of Earnings from the Social Security Administration for all the social security numbers he had used. In response to a Notice of Intent to Deny issued on May 30, 2003, the applicant indicated that he was informed by the Social Security Administration in Pasadena, Texas that he could not obtain said statement as the social security number did not belong to him. The applicant also indicated that he has not received a response from the Social Security Administration in Baltimore, Maryland. Counsel, on appeal, provided a statement from a representative of the Social Security Administration in Pasadena, Texas indicating that the applicant had visited its office requesting information on a social security number, but due to the Privacy Act, it was not released to him because it belonged to someone else.

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.