



U.S. Citizenship
and Immigration
Services



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FILE:



Office: LOS ANGELES

Date:

MAY 05 2005

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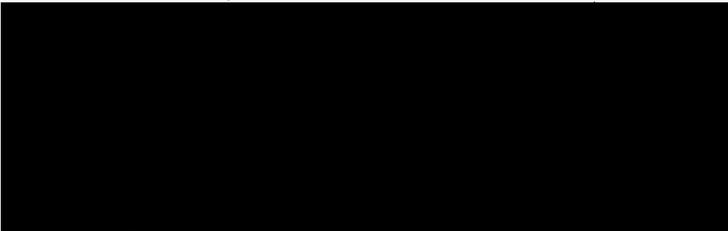
Applicant:



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:



PUBLIC COPY

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 she 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 has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel provides copies of previously submitted documentation along with new documentation in support of the appeal.

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 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:

- Identification cards from [REDACTED] District, Adult Education Division issued on January 22, 1987 and January 28, 1988.
- A letter dated April 22, 1990 from [REDACTED] who indicated that he has known the applicant since January 1984. Mr. [REDACTED] asserted that the applicant was in his employ as a housekeeper and babysitter.
- A statement dated April 23, 1990 from [REDACTED] who indicated that she has known the applicant since 1982 and the applicant has been in her employ as a housekeeper.

- Letters dated April 28, 1990 and February 28, 2003 from [REDACTED] who indicated that she has known the applicant since 1981. Ms. [REDACTED] asserted that she employed the applicant's mother.
- Four envelopes postmarked during 1986 and 1987 and addressed to the applicant at her residence, 1937 Orchard Street, La Canada, California.
- A letter dated February 18, 1999 from [REDACTED] and [REDACTED] who indicated that they have known the applicant for approximately ten years and have employed the applicant for the last five years.
- A letter dated March 7, 1999 from [REDACTED] who indicated that she has known the applicant since 1988 and had employed the applicant in 1989.
- A letter dated February 18, 1999 from [REDACTED] who indicated that the applicant was in her employ as a housekeeper from 1986 through 1997.
- A letter from [REDACTED] who indicated that he has known the applicant since 1984. [REDACTED] asserted that the applicant was employed by members of his immediate family.

The applicant also submitted a statement from [REDACTED] and [REDACTED] who indicated that the applicant was in their employ from 1986 through 1990. The Vegas' statement, however, failed to provide a telephone number or address and, therefore, is not amenable to verification by the Citizenship and Immigration Services. In addition, the statement from [REDACTED] has no probative value as it did not relate to the applicant.

The director issued a Notice of Intent to Deny dated April 9, 2004, informing the applicant that there were inconsistencies between the documentation provided with her application namely [REDACTED] indicated that the applicant resided with her mother at her residence since 1981 and assisted her mother with housekeeping duties until 1989, however, Mr. [REDACTED] indicated that the applicant was in his employ as a housekeeper, babysitter and gardener.

The applicant, in response, provided two new affidavits from [REDACTED] who both reaffirmed their previous statements. [REDACTED] asserted that the applicant was recommended for employment by [REDACTED] and was in his employ from January 1984 through September 1988, and her duties consisted of babysitting, cleaning, gardening and other housekeeping duties. Ms. [REDACTED] asserted that the applicant resided in her guesthouse with her mother from 1981 until January 1989, and assisted with housekeeping duties.

The affiants' statements have been considered and there is no conflicting information as the applicant resided with [REDACTED] while also working for Mr. [REDACTED]. It is noted that the addresses listed for the affiants are next door to each other.

In this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate her 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.