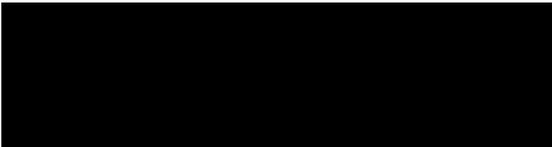


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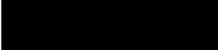


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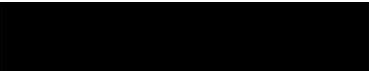
LR

FILE: 

Office: LOS ANGELES

Date:

NOV 02 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:



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, 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 argues that the director failed to cite specific reasons for the denial of the application. Counsel provides copies of previously submitted documentation in support of the appeal.

It is noted that the director, in denying the application, did not address the evidence 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).

Along with his LIFE application, the applicant, in an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, provided the following evidence::

- A letter dated September 12, 2003, from [REDACTED] office manager of [REDACTED] in Los Angeles, California who indicated that the applicant was a resident at 14928 Inglewood Avenue from 1987 to 1993.
- Affidavits from [REDACTED] who attested to the applicant's residences in Hawthorne and Lawndale from September 1981 to October 1988. Mr. [REDACTED] asserted that the applicant was a customer at his 7-Eleven Store in Redondo Beach and did yard work and odd jobs at his rental properties in Lawndale. Mr. [REDACTED] also provided a photograph of him and the applicant, which he claimed was taken in 1985.

In response to the Notice of Intent to Deny dated June 15, 2004, the applicant provided the following evidence:

- An affidavit from [REDACTED] who indicated that he has known the applicant since 1983. Mr. [REDACTED] asserted that he used to patronize the Union Gas Station where the applicant was employed.
- An affidavit from the applicant's mother who attested to the applicant's residence in the United States since 1986.
- An affidavit from [REDACTED] who indicated that from 1985 to 1987, the applicant was his roommate at [REDACTED] Hawthorne, California. Mr. [REDACTED] asserted that all utilities bills and the lease were under his name.
- An affidavit from [REDACTED] who attested to the applicant's residence since 1982 at [REDACTED]. Mr. [REDACTED] asserted that he visited the applicant in 1985.
- An affidavit from [REDACTED] who attested to the applicant's residence since 1982 at [REDACTED]. Mr. [REDACTED] asserted that he lived in the next building and the applicant visited him on the weekends.

The applicant also submitted an affidavit from [REDACTED]. However, Mr. [REDACTED] failed to provide a telephone number or address and, therefore, is not amenable to verification by Citizenship and Immigration Services. Further, the concert stub issued in 1983 and the football stub issued in 1986 have no evidentiary weight or probative value as the applicant's name is not listed on either stub.

The statements of counsel on appeal regarding the amount and sufficiency of the applicant's evidence of residence have been considered. Furthermore, counsel's contention that the applicant's inability to produce additional evidence of residence for the period in question was the result of the passage of time is considered to be a reasonable explanation in these circumstances.

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.