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U.S. Citizenship
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[Redacted]

FILE: [Redacted] Office: Los Angeles

Date: OCT 28 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:

[Redacted]

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. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

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 (AAO) 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 submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982.

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. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is probably true. See *Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

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).

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).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on or about March 21, 1991. In support of his claim of continuous residence in the United States since before January 1, 1982, the applicant submitted six affidavits of residence, two W-2, Wage and Tax Statements, three receipts from the California Department of Motor Vehicles, twenty-four postmarked envelopes, two United States Postal Service (U.S.P.S.) receipts for registered mail, a receipt for auto parts, thirty-one U.S.P.S. money order receipts, three WestAmerica Bank money order receipts, a late notice from the Exchange Bank, an automobile insurance identification card, a receipt from a car dealer, a receipt for automobile repairs and service, a traffic collision report, a retainer agreement with an attorney, three handwritten receipts, ten paycheck stubs, and five employment letters.

The record shows that the applicant subsequently submitted his Form I-485 LIFE Act application on September 24, 2001. The applicant included copies of previously submitted documents and a new letter from the California Department of Motor Vehicles.

In the notice of intent to deny issued on July 15, 2004, the district director questioned the veracity of the applicant's claimed residence in the United States. Specifically, the district director observed that the affidavits and employment letters were of minimal probative value. However, pursuant to *Matter of E--M--*, *supra*, documentation such as affidavits and employment letters in certain cases *can* effectively meet the preponderance of evidence standard, and the district director cannot simply refuse to consider such evidence but rather must examine the probative value of all the evidence provided in light of the totality of the circumstances. In addition, the district director declared that postmarked envelopes and receipts for the years 1983 and 1984 that the applicant provided in support of his claim of residence listed a previous address that did not correspond to his address of residence for this period as listed on the Form I-687 application. The applicant was granted thirty days to respond to the notice and provide additional evidence in support of his claim of residence in the requisite period.

In response to the notice of intent to deny, the applicant submitted a statement in which he indicates that he continued to use a previous address as a mailing address merely as a convenience to ensure the delivery of his mail to a fixed address. The explanation put forth by the applicant in his response appears to reconcile any purported conflicts cited by the district director regarding the discrepancy in his addresses of residence. Consequently, the inconsistencies cited by the district director are minimal and cannot be considered as fatal to the applicant's claim of continuous residence in the United States from prior to January 1, 1982 to May 4, 1988.

In this instance, the applicant submitted evidence, including affidavits, employment letters, and original contemporaneous documents, which tends to corroborate his claim of residence in the United States during the requisite period. The district director has not sufficiently 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.