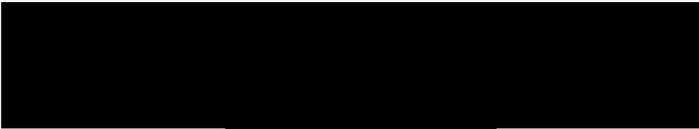




U.S. Citizenship
and Immigration
Services

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FILE:



Office: Los Angeles

Date: MAY 09 2006

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:

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. 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, Chief
Administrative Appeals Office

DISCUSSION: The District Director, Los Angeles, California denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act, and it is now before the Administrative Appeals Office (AAO) for review. The appeal will be dismissed.

On March 9, 2006, the AAO issued a notice to the applicant in regard to the adverse information discussed below. *See AAO's Decision*, dated March 9, 2006. The applicant was given 30 days to respond to this adverse information. On April 17, 2006, the applicant submitted a response to the adverse information. *See Applicant's Response*, dated April 17, 2006. That response included an affidavit from [REDACTED] which will be addressed below.

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).

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished an affidavit of residence with her response to the adverse information. The affidavit, signed by [REDACTED] who provided his address, [REDACTED] California, declared that he came to know the applicant in November 1985 through religious gatherings and that he would see her while he resided on [REDACTED]

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished copies of the following documents with her Form I-485, LIFE Act application:

- An affidavit of residence signed by [REDACTED] who provided his address [REDACTED] and declared that he knew the applicant had resided in the United States since June 1981
- An affidavit of residence signed by [REDACTED] who provided his address, [REDACTED] and declared that he knew the applicant had resided in the United States since June 1981

- An affidavit of residence signed by [REDACTED] who provided his address, [REDACTED] and declared that he knew the applicant had resided in the United States since June 1981
- An employment letter signed by [REDACTED] who stated that "Indian Restaurant", located at [REDACTED] employed the applicant from September 25, 1987 to December 5, 1990, the date on which the letter was executed
- An affidavit signed by [REDACTED] who provided his address, [REDACTED] and declared that the applicant had attended services at the [REDACTED]

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) (Form I-687), dated December 13, 1990. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed [REDACTED] from October 1981 to August 1985 [REDACTED] in Reseda, California from August 1985 to June 1987, and [REDACTED] in Caruthers, California from July 1987 to December 13, 1990, the date the Form I-687 application was executed. On December 14, 1990, the date on which she was interviewed in regard to the Form I-687, the applicant verified that she had been affiliated with the [REDACTED] in Los Angeles, California from August 1985 until December 14, 1990, the date on which she filed the Form I-687. The applicant verified that she had no other affiliations during her stay in the United States. The applicant testified that she had been unemployed from 1981 until 1988 and that she had resided with [REDACTED] at [REDACTED] from July 1988 until December 14, 1990, the date on which the Form I-687 was filed. In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished originals of the following documents with her Form I-687:

- An affidavit of residence signed by [REDACTED] who declared that he had resided with the applicant at [REDACTED] from December 1, 1981 to September 30, 1985
- An affidavit of residence signed by [REDACTED] who declared that he had resided with the applicant [REDACTED] Reseda, California 91335 from August 25, 1985 to June 13, 1987
- An affidavit of residence signed by [REDACTED] who declared that he had resided with the applicant at [REDACTED] Fresno, California 93609 from July 19, 1987 to December 5, 1990, the date on which the affidavit was executed
- An employment letter signed by [REDACTED] who stated that "Indian Restaurant", located at [REDACTED] California 93721, employed the applicant from July 25, 1987 to December 5, 1990, the date on which the letter was executed

The record shows that the applicant appeared at CIS' Los Angeles, California District Office on August 11, 2004. The notes of the interviewing officer reflect the applicant testified that she had first entered the United States on December 1, 1981 and had left the United States on July 19, 1987 to visit India, re-entering the

United States on August 19, 1987. During the applicant's visit to India she gave birth to her first child,

On October 13, 2004, the district director issued a notice of intent to deny to the applicant informing her of CIS' intent to deny her LIFE Act application because she had failed to submit sufficient credible evidence of continuous unlawful residence in the United States for the period in question. The applicant was granted thirty days to respond to the notice and provide additional evidence in support of her claim of residence in the requisite period.

In response to the notice, the applicant asserted that she had continuously unlawfully resided in the United States since before January 1, 1982. The applicant stated that [redacted] and [redacted] knew that she had resided in New York between 1981 and 1985 because they had attended Sikh religious functions in New York during that period. However, the applicant failed to provide any evidence to support this assertion, except for an affidavit signed by [redacted] a Priest with the [redacted] Inc., declaring that the applicant was a regular member of his Gurudwara (church) congregation from 1981 to 1985.

On November 17, 2004, the district director issued a notice of denial of the application because the affidavits she had provided did not contain sufficient information to establish her residency and the statement from the Sikh Cultural Society did not note whether the information provided was taken from official records or given from personal memory.

On appeal, the applicant did not provide any further independent evidence to corroborate the assertions made in response to the notice of intent to deny. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I. & N. Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I. & N. Dec. 190 (Reg. Comm. 1972)).

The affidavits signed by [redacted] and [redacted] stating that that they knew that the applicant had resided in the United States since June 1981, failed to provide detailed information as to how they knew the applicant, exactly where, and over what period of time, the applicant resided in the United States, and how they knew the applicant resided in the United States during a period in which they resided in California while the applicant claimed [redacted] resided in New York. Not only are the affidavits from [redacted] lacking in sufficient detail, they are inconsistent with the applicant's testimony. These affidavits state that the applicant has resided in the United States since June 1981. The applicant testified that her first entry into the United States occurred on December 1, 1981

The affidavits signed by [redacted] and [redacted] stating that they resided with the applicant at various address between 1981 and 1990 failed to provide any detailed specific information relating to how they came to know the applicant and were given in the form of a generic fill in the blank affidavit format. Moreover, the applicant did not provide any corroborating evidence to support the affiants' testimony.

The affidavit signed by [redacted] not only lacks sufficient detail, it appears to have been altered and is inconsistent with the applicant's testimony and the affidavit signed by [redacted]. The affidavit signed by [redacted] contains typewritten notations, including but not limited to, the applicant's name, the affiant's

name, and the place and date of residence together. The typewritten notation as to the applicant's name does not conform to the sizes and style of printing utilized in the other typewritten notations. Additionally, the affidavit contains the following typewritten notation: "For any information regarding [redacted] residence during above said period you can contact at [redacted] [signature of denonent]." There is no indication who [redacted]. The affidavit states that, the applicant resided with [redacted] until September 30, 1985. However, the applicant testified that she changed her residence in August 1985 and the affidavit from Bhag Singh indicates that the applicant commenced her residence with him on August 25, 1985.

The affidavit signed by [redacted] not only lacks sufficient detail, it is inconsistent with the applicant's testimony. The affidavit states the applicant resided with [redacted] from July 19, 1987 until December 5, 1990, the date on which the affidavit was executed. However, the applicant testified that from July 1988 until December 14, 1990, the date on which she was interviewed, she resided with [redacted] at a different address than the address at which [redacted] claims the applicant resided during the same period.

The applicant submitted affidavits signed by [redacted] and [redacted] stating that, between 1981 and 1985, the applicant was active with the [redacted] and the [redacted] respectively, they failed to provide any detailed specific information relating to how they came to know the applicant and how they were able to verify that the applicant was active during this time period. Moreover, the affidavits are inconsistent with the Form I-687. The Form I-687 indicates, and the applicant verified during her interview in regard to the Form I-687, that the **only organization with which she had been involved** since she began to reside in the United States was the [redacted] in Los Angeles, California from August 1985 until December 14, 1990, the date on which she was interviewed. Moreover, the affidavits are inconsistent as to where the applicant was a regular congregant.

The original and the copy of the employment letter signed by [redacted] stating that [redacted] employed the applicant, failed to provide the affiant's address or any detailed specific information relating to how he knew the applicant and how he knew the applicant was employed by [redacted]. Both the original and the copy of the employment letter are inconsistent with the Form I-687 and the applicant's testimony at the interview in regard to the Form I-687. The Form I-687 indicates, and the applicant testified, that she was unemployed from 1981 until 1988 and that she did not commence employment until July 1988. The original employment letter indicates the applicant commenced employment on July 25, 1987, while the copy of the employment letter indicates she started on September 25, 1987. Moreover, it appears that the copy of the employment letter has been altered. The date of initiation of employment has been written-over to indicate that the applicant's employment started on September 25, 1987, rather than July 25, 1987, a date on which the applicant testified she was outside the United States.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

In addition to the above issues, the record contains information that the applicant's Form I-687 was prepared by individuals who signed a plea agreement admitting that, between November 21, 1990 and January 17, 1991, they prepared and filed false Form I-687s and supporting documentation, on behalf of a number of aliens. The applicant was identified, by name and A-number, as an alien on whose behalf they filed a false

Form I-687 and supporting documentation. Many of the documents submitted with the initial Form I-687 were resubmitted with the Form I-485 LIFE Act application. This seriously diminishes the credibility of all documentation submitted throughout the process.

In response to the adverse information, the applicant submitted a letter in which she did not address the adverse information and merely stated that she was telling the truth. The affidavit of residence submitted by the applicant with the response is not sufficient proof of residence during the period in question, because [REDACTED] indicates that he had only known the applicant since November 1985, and it does not overcome the adverse information or the inconsistencies and lack of detail in the evidence discussed above.

The affidavits submitted by the applicant in support of her claim of residence in the United States from prior to January 1, 1982 to May 4, 1988, including the affidavit submitted in response to the adverse information, are of minimal probative value because they do not provide sufficient details.

The absence of sufficiently detailed supporting documentation and the existence of conflicting testimony that contradicts critical elements of the applicant's claim of residence seriously undermines the credibility of the supporting documents, as well as the credibility of the applicant's claim of residence in this country for the requisite period. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet her burden of proof in establishing that he or she has resided in the United States since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

Given the applicant's reliance upon supporting documents with minimal probative value, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.