



U.S. Citizenship  
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[Redacted]

FILE:

[Redacted]

Office: DENVER

Date: **AUG 26 2008**

MSC 03 242 60255

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director (director) in Denver, Colorado. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he (1) satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act, and (2) resided continuously in the United States from before January 1, 1982 through May 4, 1988.

On appeal counsel asserts that the applicant can meet the citizenship skills requirement and that the evidence submitted by the applicant is sufficient to prove that he has resided in the United States from January 1, 1982 to May 4, 1988, and has been physically present in the United States from November 6, 1986 to May 4, 1988. Counsel submitted copies of documents that have previously been submitted into evidence.

Under section 1104(c)(2)(E)(i) of the LIFE Act, regarding basic citizenship skills, an applicant for permanent resident status must demonstrate that he or she:

- (I) meets the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or
- (II) is satisfactorily pursuing a course of study (recognized by the [Secretary of Homeland Security]) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

Under section 1104(c)(2)(E)(ii) of the LIFE Act, the Secretary of Homeland Security may waive all or part of the above requirements for aliens who are at least 65 years of age or who are developmentally disabled. *See also* 8 C.F.R. § 245a.17(c).

An applicant may establish that he or she has met the requirements of section 312(a) of the Immigration and Nationality Act (Act) by demonstrating an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language, and by demonstrating a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States. *See* 8 C.F.R. § 245a.17(a)(1) and 8 C.F.R. §§ 312.1 – 312.3.

An applicant may also establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by providing a high school diploma or general educational development diploma (GED) from a school in the United States. *See* 8 C.F.R. § 245a.17(a)(2). The high school or GED

diploma may be submitted either at the time of filing the Form I-485 LIFE Act application, subsequent to filing the application but prior to the interview, or at the time of the interview. *Id.*

Finally, an applicant may establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by establishing that:

He or she has attended, or is attending, a state recognized, accredited learning institution in the United States, and that institution certifies such attendance. The course of study at such learning institution must be for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) and the curriculum must include at least 40 hours of instruction in English and United States history and government. The applicant may submit certification on letterhead stationery from a state recognized, accredited learning institution either at the time of filing Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview (the applicant's name and A-number must appear on any such evidence submitted).

8 C.F.R. § 245a.17(a)(3).

An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the initial LIFE interview shall be afforded a second opportunity after six months (or earlier at the request of the applicant) to pass the required tests or to submit the evidence described above. *See* 8 C.F.R. § 245a.17(b).

The applicant, a native of Mexico who claims to have resided in the United States since 1981, filed his Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act (Form I-485) on May 30, 2003.

On November 18, 2004 the applicant was interviewed for LIFE legalization. He failed to demonstrate a basic understanding of ordinary English and a basic knowledge of U.S. history and government during the examination portion of the interview.

At his second interview for LIFE legalization, on May 20, 2005, the applicant passed the test of ordinary English language but failed the test of basic knowledge of United States history and government.

In a Notice of Intent to Deny (NOID), dated November 8, 2005, the director, indicated that the applicant had not provided sufficient credible evidence to establish that he resided continuously in the United States from before January 1, 1982, through May 4, 1988. The director also noted that the applicant failed to meet the citizenship skills requirement of a basic understanding of the history and government of the United States for the second and final time. The applicant was granted 30 days to submit additional evidence.

The applicant did not respond to the NOID and on January 25, 2006, the director issued a decision denying the application on the grounds that the applicant had failed to meet the citizenship skills requirement or meet an exception to this requirement and was therefore ineligible for permanent resident status under the LIFE Act. The director also denied the application because the applicant failed to submit sufficient credible evidence to establish that he resided continuously in the United States from before January 1, 1982 through May 4, 1988, and was physically present in the United States from November 6, 1986 until May 4, 1988.

On appeal counsel asserts that the applicant can meet the citizenship requirement, but failed to submit any evidence to support his claim. Counsel also asserts that the evidence submitted by the applicant is sufficient to establish his continuous residence in the United States since before January 1, 1982 through May 4, 1988, and his physical presence in the United States from November 6, 1986 through May 4, 1988. Counsel submits copies of two documents previously submitted in the record.

The applicant has not satisfied the basic citizenship skills for LIFE legalization under any of the three options set forth in the regulations. On two separate occasions he failed to pass examinations of his knowledge of U.S. history and government, as required under 8 C.F.R. § 245a.17(a)(1). He did not provide a high school diploma or GED from a school in the United States, as required under 8 C.F.R. § 245a.17(a)(2). Nor did the applicant show at the time of his second interview on May 20, 2005, that he had attended, or was attending, a state recognized, accredited learning institution in the United States, following a course of study which spans one academic year and that includes 40 hours of instruction in English and United States history and government, as required under 8 C.F.R. § 245a.17(a)(3).

The applicant is not 65 years old or older and there is no evidence in the record that he is developmentally disabled. Thus, the applicant does not qualify for either of the exceptions listed in section 1104(c)(2)(E)(ii) of the LIFE Act.

The applicant has failed to demonstrate that he has met the basic citizenship skills requirement as described at 1104(c)(2)(E) of the LIFE Act. Accordingly, he is not eligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

To be eligible for adjustment to permanent resident status under the LIFE Act applicants must also establish their continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, as well as their continuous physical presence in the United States from November 6, 1986 through May 4, 1988. *See* section 1104(c)(2)(B)(i) and (C)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A) and (3)(A).

As evidence of his continuous residence in the United States during the years 1981 through 1988, the applicant submitted a series of documents, most of which had originally been filed in 1990. They included the following pertinent materials:

- A letter from [REDACTED] of [REDACTED], dated August 14, 1990, stating that he was the former construction supervisor at CUDE Inc., and that the applicant was employed by CUDE Inc., from 1981 through 1986.
- An undated letter of employment from [REDACTED], stating that the applicant worked from 1987 to 1989, and was paid \$5 to \$6 dollars per hour.
- A Verification of Residence from [REDACTED], dated December 4, 1990, stating that he was the landlord of a rental property located at [REDACTED], Livingston, Texas, and that the applicant rented Apartment # [REDACTED] in the building from January 1, 1982 to December 1986.
- An affidavit from [REDACTED] a resident of Livingston, Texas, dated November 8, 1990, stating that the applicant lived with him at his home located at [REDACTED], Livingston, Texas, from 1981 to 1990, and that the applicant is a good and responsible person.
- An affidavit from [REDACTED] dated December 27, 1990, stating that he has known the applicant since 1981, that he also knows the applicant's family very well and that he and the applicant have maintained their friendship for some time.
- An affidavit from [REDACTED], dated January 19, 1991, stating that he has known the applicant since January 1981, that he met the applicant at the grocery store and where they played soccer and also at work.
- An affidavit from [REDACTED], dated January 22, 1991, stating that he has known the applicant since 1981, that he has maintained a very good friendship with him and his family, and that the applicant is a very fine person and a good hard worker.
- An affidavit from [REDACTED], dated December 21, 2002, stating that the applicant lived on his farm in the year 1980.

The letters of employment from [REDACTED] certifying that the applicant worked for CUDE Inc., and from [REDACTED] failed to meet the regulatory standards set forth at 8 C.F.R. § 245a.2(d)(3)(i), because the letters did not provide the applicant's address during the period(s) of employment, did not describe the applicant's position or duties, did not indicate whether or not the information was taken from official company records, where the records are located and whether CIS may have access to the records. Nor were they supplemented by any earnings statements, pay stubs, or tax records demonstrating that the applicant was actually employed during the periods stated. In addition, on January 25, 1991, CIS contacted CUDE Inc. to verify the applicant's employment with the company, but the company was unable to verify that the applicant worked for the company.

For the reasons discussed above, the AAO determines that the employment letters have little probative value. They are not persuasive evidence of the applicant's continuous residence in the United States during the years 1981 to 1988.

The verification of Residence from [REDACTED] dated December 4, 1990, stating that the applicant resided at [REDACTED] in Livingston, Texas, from January 1, 1982 to December 1986, is inconsistent with information provided on the application for temporary resident status (Form I-687) the applicant filed in 1990. On the Form I-687 the applicant stated that he resided at [REDACTED] Livingston, Texas, from December 1981 to 1990, and did not identify [REDACTED] Livingston, Texas, as his place of residence from 1982 to 1986, or any other time.

In similar vein, the affidavit from [REDACTED] dated December 21, 2002, stating that the applicant lived on his farm in 1980, lacks credibility because by his own testimony and documents in the record the applicant indicated that he first entered the United States in December 1981. The applicant has never claimed to have entered and resided in the United States in 1980.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice without competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the applicant's evidence also reflects on the reliability of other evidence in the record. *See id.* For the reasons discussed above, the Verification of Residence and the affidavit from [REDACTED] have no probative value as evidence of the applicant's residence in the United States in the 1980s.

The affidavits from [REDACTED], from [REDACTED], from [REDACTED], and from [REDACTED] all have minimal information about the applicant. While they all claim to have known the applicant since the early 1980s, the affiants provide almost no information about his life in the United States and their interaction with him over the years. Nor are the affidavits accompanied by any documentary evidence from the affiants – such as photographs, letters, and the like – of their personal relationship with the applicant in the United States during the 1980s. In addition, none of the affiants provided independent evidence of their own identity and presence in the United States during the requisite time period. In view of these substantive shortcomings, the AAO finds that the affidavits have little probative value. They are not persuasive evidence of the applicant's continuous unlawful residence in the United States from before January 1, 1982.

Based on the foregoing analysis of the evidence, the AAO concurs with the director's decision that the applicant has failed to establish that he entered the United States before January 1, 1982 and resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B)(i) of the LIFE Act, 8 U.S.C.

§ 245A(a)(2)(A). On this ground as well, therefore, the applicant has failed to establish his eligibility for legalization under the LIFE Act.

For the reasons discussed above, the appeal will be dismissed, and the application denied.

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