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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 01 303 61209

Office: NEW YORK Date: **MAY 20 2008**

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: Self-represented

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, New York, New York, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

The record reflects that a Notice of Intent to Deny dated January 7, 2004, was issued in which the director noted that on May 25, 2005, the applicant failed to demonstrate a minimal understanding of English and minimal knowledge of United States history and government.

Although the record contains a Form G-56, which advised the applicant of his scheduled interview on May 25, 2005, there is no evidence in the record to support the director's conclusion regarding events that occurred during the applicant's first interview on May 25, 2005. If a denial of an application is to be based upon what the applicant purportedly did or was unable to do at the time of the interview, the record must contain a contemporaneous first-hand account of such events.

On July 10, 2006, the director denied the application because the applicant had failed to establish that he satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act. The director noted that a Notice of Intent to Deny was issued on June 10, 2005; however, the notice is not in the record. The only Notice of Intent to Deny is the notice dated January 7, 2004, which was dated *prior to* the applicant's scheduled interview on May 25, 2005.

While the record does contain documentation indicating that on June 27, 2005, (the applicant indicated that he could not read, write or speak the English language) and July 6, 2006, the applicant failed to demonstrate a minimal understanding of English and minimal knowledge of United States history and government, the record does not contain a Notice of Intent to Deny addressing this matter.

Accordingly, the case is remanded for inclusion of documentation of the May 25, 2005, test results and the notice dated June 10, 2005. If the documents cannot be obtained, a new Notice of Intent to Deny shall be issued addressing the matter above as well as an entry of a new final decision in accordance with the foregoing. If the new decision is adverse, it may be certified to this office.

ORDER: This matter is remanded for further action and consideration pursuant to the above.