

## **I-601 Waiver to excuse grounds of ineligibility for Permanent Residence**

Under U.S. immigration law, there are various **grounds of ineligibility that will bar a permanent residency applicant from approval**. Misrepresentation, conviction of certain crimes, and unlawful presence are the most common grounds of ineligibility.

There are waivers available to excuse some of the grounds of ineligibility available to spouses and parents and sons or daughters of U.S. citizens or Permanent Residents (relation will vary according to the waiver). Obtaining a waiver approval involves the filing of a waiver application by the permanent residency applicant's spouse, child or parent with supporting documentation to establish the extreme hardship that the U.S. citizen spouse, child or parent will suffer if forced to accompany the permanent residency applicant to his or her home country.

### **US Citizen Extreme Hardship Factors**

- Family ties in the U.S. and the home country;
- Conditions in the home country (economic, religious, political, healthcare, safety, human rights, threats to U.S. citizens);
- Qualifying ties to the U.S. and to the home country (business, job prospects, home ownership, friends, community organizations, debts);
- Financial impact of relocation to home country or to maintaining 2 households;
- Emotional, psychological effects of separation or relocation for U.S. citizen spouse;
- Medical conditions affected by return to home country.

### **Positive Applicant Factors**

- Seriousness of the ground of ineligibility.
- Passage of time since the ground of ineligibility occurred.
- Rehabilitation – proof of completion of sentence; completion of community service; GED; anger management courses; therapy; AA
- Good moral character – employment, church membership, charitable and community service, taxpayer.

### **Useful documents in support of I-601 Waiver**

- Affidavits of affected U.S. Citizens and Permanent Residents
- Employment records (long-term steady employment)
- Tax returns
- Rehabilitation records
- Marriage Certificate

- Birth Certificates for children, school and medical records for children
- Certified copies of all criminal records (arrests, charges, convictions, expunctions)
- Relevant third-party information on other family members affected
- Affidavits from friends, employers and employees, neighbors testifying to the applicant's good moral character and hardship they will suffer if applicant removed
- Debts that will go unpaid
- Articles of incorporation for business
- Employees that will be laid off or business that will be closed or fail
- Medical records and unavailability of treatment facilities for existing medical conditions if removed or lack of financial means or facilities
- Country Report (DOS) of home country conditions
- Alien's contributions and ties to U.S.—employment, business, volunteer work, religious activities, involvement in school, other community activities
- Evidence of home ownership
- Photos of family, home and business

The permanent residence applicant should **write a detailed letter requesting the waiver be granted** and include the following relevant information: a clear statement regarding when and how you came to the US; the ground of inadmissibility and what you learned from your mistake; rehabilitation; childhood, education, cultural background; work history; family details, marriage, children; details about current family life; religious activities; volunteer work, etc.

The applicant must provide documentary evidence of the above factors and **identify others that can explain the above details**. These “affiants” must submit a separate letter to include the following details: copy of Driver's License, affiants address, immigration status, employment, how they met the Applicant, how long you've known the applicant; how often they see the applicant; opinion of the applicant's character; how the removal (deportation) will result in extreme hardship.

**Fong•Ilagan, LLP** works with clients to simplify the immigrant waiver visa process. To discuss your case with an experienced immigration attorney, please contact our office at 713.772.2300.