

COMPLIMENTARY COUNSEL

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Maintaining Residency as a Green Card Holder vs. Residency Requirements for Purposes of Naturalization

Problem: An individual who has lawfully received a Green Card is considered a Lawful Permanent Resident or “LPR.” By applying for a Green Card, the Applicant assures the U.S. government that he/she intends on permanently residing in the U.S. As such, the law places restrictions on the LPR’s travel outside the United States. Trips of certain duration can be used by immigration officials as evidence that the LPR does not intend to permanently reside in the U.S. and, instead, has abandoned their Green Card status. **Many Green Card holders we have encountered do not fully understand their travel restrictions and, more often, have confused these restrictions with the continuous residence requirements for naturalization.**

Counsel: **There is no specific requirement on how long an LPR can be outside the U.S.** As a general rule of practice, however, absences outside of the U.S. for more than one year can be used by immigration officials as evidence of the LPR’s intent to abandon his permanent residence in the U.S. Abandonment may be found to occur in trips of less than a year where it is believed the LPR did not intend to make the U.S. his permanent home. Therefore, it’s important to keep bank accounts, lease/property contracts, tax filings, etc. open and active to prove intent to live permanently in the U.S. If the LPR intends on being outside of the U.S. for more than one year, he should apply for a Reentry Permit *prior* to departing the U.S.

The requirements of continuous residence are for naturalization purposes only and should not be confused with maintaining LPR status. In order to become a U.S. citizen, one must maintain “continuous residence” in the U.S. Absences from the U.S. of more than 6 months but less than a year break the continuous residence, but this can be overcome with evidence that the applicant did not intend to abandon his residence. Absences from the U.S. of more than one year break continuous residence (except for extremely limited circumstances).

Maintaining permanent residence in the U.S. for Green Card holders and establishing “Continuous residence” for naturalization applicants may appear very similar, but are separate and distinct legal concepts. If you are an LPR considering travel outside the U.S., please first consult an immigration attorney to ensure you are not jeopardizing your status or ability to naturalize in the future.

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