

U.S. Citizens Living Abroad: Satisfying the “Intent to Domicile” Requirement for Family Member Green Card Sponsorship

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Often a U.S. Citizen or Legal Permanent Resident lives abroad and wants to sponsor a foreign national spouse or other family member for an immigrant visa or green card. A question often arises: **does a sponsor have to live in the U.S. to file the petition for the relative?** The answer: technically, yes, **but the sponsor can proceed with immigration sponsorship by proving his or her "intent to domicile" in the U.S. even while still living overseas.**

Section 213A of the Immigration and Naturalization Act of the United States of America requires that in order to sponsor an alien for legal permanent resident status (green card) in the United States, the sponsor must be **domiciled** in the United States.



Domicile Definition for Immigration

"Domicile" means the place where a sponsor has his or her principal residence, with the intention to maintain that residence for the foreseeable future.

Proving or Establishing Domicile

To prove, establish or reestablish domicile, a sponsor must set up a principal residence in the United States. This would entail obtaining a residence (house or apartment) and taking up physical residence. There is no minimum time required to establish residence, but a credible demonstration of an actual residence in the United States is required.

"Intent to Domicile" for U.S. Citizens Returning from Overseas

A convincing combination of the following types of action might be considered as an indication of a U.S. citizen's "intent to domicile" in the U.S.:

1. Establishing an address in the United States
2. Setting up and maintaining bank accounts in the United States
3. Transferring funds to the United States
4. Making and maintaining investments in the United States
5. Seeking employment in the United States
6. Applying for a social security number
7. Voting in U.S. local, state, or federal elections

8. Enrolling children in U.S. schools
9. Paying U.S. income taxes
10. Taking steps to relinquish residency in a foreign country

*The domiciliary requirement applies to the petitioner, sponsor and joint sponsor(s)

Domicile is a complex issue and is determined on a case-by-case basis. The *burden of proving domicile lies with the U.S. citizen sponsor*, who must offer evidence sufficient for the adjudicating officer to make a finding. A finding regarding domicile is an evidentiary question that will be unique to each applicant, and it is within the delegated authority of the consular or USCIS officer to make such a determination at his or her professional discretion.

SCHEDULE A LEGAL STRATEGY SESSION FOR ASSISTANCE WITH DOMICILE ISSUES

If you are a U.S. citizen planning to return to the U.S. and sponsor a family member for Permanent Residence (green card), contact us to arrange a legal strategy session to address your questions. We will assist you via telephone or Skype in identifying and gathering the documentary evidence necessary to prove United States domicile or intent to domicile. Contact The Law Office of Tanya M. Lee, PLLC today at tlee@aboutusvisas.com and 1 (480) 559-9529.