



May 6, 2015

Via email: Mike.MacDonald@cic.gc.ca

Mike MacDonald, Director General
Operational Management and Coordination
Citizenship and Immigration Canada
365 Laurier Avenue West
Ottawa, ON K1A 1L1

Dear Mr. MacDonald:

Re: Spouse and Common Law Partner in Canada Class (SCLPC) and Overseas Sponsorship Applications

I write on behalf of the National Immigration Law Section of the Canadian Bar Association (the CBA Section). The CBA is a national association of over 36,000 lawyers, notaries, students and law teachers, with a mandate to promote improvements in the law and the administration of justice. The CBA Section comprises lawyers whose practices embrace all aspects of immigration and refugee law.

We are writing to initiate a dialogue on practical concerns with the Spouse and Common Law Partner in Canada Class (SCLPC) and Overseas Sponsorship Applications. We applaud CIC's introduction of the SCLPC Open Work Permit Pilot Program in December 2014. It is our hope that constructive dialogue will lend itself to other positive developments like this one.

Our questions for discussion are set out below by subject matter for ease of reference.

Processing Times

1. Longer processing times for the SCLPC and overseas sponsorships are causing hardship to Canadian citizens or permanent resident sponsors and their families. This may be due to separation of family members if the applicant is overseas. It may also be due to unemployment if the applicant is in Canada and is not eligible for a work permit until first stage approval. For example, out-of-status spouses are not eligible for a work permit under the pilot project.

Current posted average past processing times for overseas applicants are 61 days for assessment of the sponsor, and a range of 9-36 months for the assessment of the application for permanent residence, depending on the visa office. It is taking 17 months for the SCLPC assessment to first stage approval, and 10 months for second and final stage approval.

What is being done to address lengthy processing times?

Case Processing Centre (CPC) Mississauga Concerns

2. Our members are noticing an increase in processing errors at CPC Mississauga. SCLPC applications are incorrectly streamed as overseas applications, and vice versa. Applications are returned unprocessed because intake officers have overlooked documents and submissions or misinterpreted the requirements for a particular stream. What steps are being taken to eliminate these errors? What additional steps can we take, as representatives, to ensure that applications are properly evaluated?

SCLPC Issues

3. Both SCLPC and overseas sponsorship applications are now processed in CPC Mississauga. The eligibility requirements and application forms are almost identical. It is difficult to understand why refused overseas sponsorship applicants have access to the Immigration Appeal Division (IAD), while refused SCLPC applicants do not. What is the reason for continuing to distinguish between the SCLPC and overseas sponsorship processing streams?
4. The IP8 H Administrative Deferral policy defers removal for 60 days for out-of-status SCLPC applicants, despite the processing time for first-stage approval now being significantly longer than 60 days. Are the Canada Border Services Agency (CBSA) and CIC working together to ensure that spousal applications are decided within this period? If not, we propose extending the time as a matter of policy. As well, CIC's policy should be clarified so that all parties, including CBSA, understand that those who file their applications before a Pre-Removal Risk Assessment (PRRA) has been initiated are not limited to the 60 days referred to above. They have a deferral until their case is decided by CIC.
5. Given the policy (IP8 H Administrative Deferral) to allow out-of-status SCLPC applicants to remain in Canada while their sponsorship application is in process, why is the Open Work Permit Pilot Program limited to those with valid temporary status in Canada? Those without valid status are often in the most desperate need of a work permit.
6. With the new Open Work Permit Pilot Program for SCLPC applications, what will happen if the work permit application is made after sponsorship submission (before approval-in-principle)? How are those cases being treated?
7. SCLPC applicants seeking to obtain certain benefits require confirmation of first stage approval and issuance of a work permit, or issuance of work permit under the pilot project, to obtain benefits such as provincial health coverage.
8. This is addressed within four months of application for those eligible for work permits under the pilot project, as the work permit makes them eligible for health coverage. However, out-of-status applicants not eligible for a work permit under the pilot project have no access to health coverage until after approval-in-principle of the permanent residence application. This currently takes up to 17 months. Is it possible to arrive at first stage approval faster?
9. In the past, when a family class applicant was inadmissible, a common practice was to submit a Humanitarian & Compassionate (H&C) submission with the permanent residence application, as well as a request for a Temporary Resident Permit (TRP). The same officer dealt with any H&C factors in the spousal application, as well as the TRP application. This process made sense, as the officer had complete information when considering the application. Are H&C and TRP requests still dealt with by the officer who assesses the permanent residence application?

Overseas Sponsorship Applications

10. At present, family class applicants in the US are interviewed only at the Los Angeles office. This can cause hardship to applicants residing far from Los Angeles. Will CIC consider allowing interviews in other locations to address this hardship?

R72.1 Conditional Permanent Residence Exceptions (Victims of Abuse)

11. When the conditional permanent residence measures were introduced, the government recognized that exceptions were needed for victims of abuse. What actions are being taken to ensure victims of abuse are protected?
12. How many victims of abuse have claimed the exception? How many were granted or denied the exception? What instructions were given to those denied the exception?

Thank you for taking the time to consider our questions and concerns. We welcome the opportunity to discuss these issues further at your convenience.

Yours truly,

(original letter signed by Tamra L. Thomson for Deanna L. Okun-Nachoff)

Deanna L. Okun-Nachoff
Chair, CBA Immigration Law Section