

“Getting your Marriage Based Green Card Application Approved” by Adam Edward Rothwell, Esq.

A legitimate marriage to a US Citizen is usually the quickest way to receive a green card for a couple residing in the US. Also there is no limit to how many foreign citizens may receive green cards each year through legitimate marriages to US Citizens. Additionally, no difference exists in processing standards or application requirements for marriages between same-sex couples as marriages between couples of spouses with different genders. This means marriages between same-sex couples are to be treated equally in processing for marriage based green cards.

US Citizenship & Immigration Services Officers (USCIS) adjudicate marriage based green card applications within the United States, and USCIS Officers have a wide range of autonomy in application processing. USCIS Officers have the authority to require investigations. In situations where fraud is suspected, USCIS Officers with specific expertise in fraud matters may become involved and spend substantial time interviewing each member of the couple separately. Additionally, other options available to USCIS Officers include but are not limited to extended background searches and even site visits at the purported residence of the couple. However, most legitimate applications for green cards through marriage are adjudicated by USCIS Officers without either much issue or delay to the couple.

A major component of marriage based green card applications consists of supporting documents affirming the marriage has been entered into in good faith. USCIS requires an interview so that the adjudicating officer may get his/her personal opinion on how the couple interacts, but documents supporting the legitimacy of the marriage are still extremely important.

Documents Supporting Legitimacy of the Marriage

Almost any evidence may be submitted in support of the marriage. However, the adjudicating officer will determine how much substantive value to put on individual pieces of supporting evidence. What follows are my opinions based on experience as to what types of evidence USCIS adjudicating officers’ often consider to have value in marriage based green card applications.

Unless one member of the couple owned a residence before the marriage and the couple resides in that residence, USCIS Officers really expect to see both members of the couple listed on a document that affirming the residence. If the couple has bought a residence since being married, both spouses should be on the mortgage and/or title. More importantly, if the couple resides in an apartment, both spouses need to be on the lease. If either a lease does not exist or both spouses are not on a lease, these are huge red flag and possibly major issues.

Since starting to practice law, I have had clients for marriage based green cards who have resided in a wide-range of living situations. For example I represented a couple who lived in a group house with other friends where the lease had none of the current tenants listed, including my married clients. I have represented a couple who lived in a unit with no legal address where no lease existed and rent was paid in cash to an anonymous landlord. And I have represented many sets of spouses who lived with relatives, friends and associates. While I have had all of these referenced cases eventually approved, USCIS Officers expect to see a lease in marriage based green card applications. They want to see a lease. Applicants for marriage based green cards who do not own their residence are almost always best served in marriage based immigration applications to reside in a traditional apartment together with a lease.

Along with documentation affirming a joint residence, applicants for marriage based green cards need at least one joint bank account, which preferably for immigration processing has been actively used since start of the marriage. Evidence of a joint bank account is so important that providing this evidence does not really seem in my opinion to help marriage based green card applications get approved. Rather, if the

couple does not provide evidence of a joint bank account, the application will likely run into major problems and/or risk being denied.

Similar to evidence of a joint bank account, photos of the couple need to be brought to the interview, and photos in my opinion usually do not provide strong grounds for approving marriage green cards. Officers expect to see photos, so not providing photos is potentially another major issue.

Other documents that have strong value are evidence of joint car ownership, evidence of joint car insurance and evidence of joint health insurance. Also evidence of life insurance and/or a 401K policy with the other spouse listed as primary beneficiary have value. Additionally, affidavits, which are really just letters, from close relatives or friends have strong value. If the US Citizen provides detailed letters from his/her mom and dad in support of the marriage and both parents also happen to be US Citizens, this evidence alone makes the application very strong.

Evidence in support of the marriage that adjudicating officers usually feel have less value are examples of house bills such as water bills and gas bills with each spouse listed on the bill. Joint credit card bills are usually taken to have even less value, and joint cell phone bills are often considered to have virtually no value as documents in support of the legitimacy of a marriage.

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