

## **Presidential election 2008: 13 days to go: Relinquishing green card not black-and-white: lawyers**

By Jenny W. Hsu and Charles Snyder / STAFF REPORTERS IN TAIPEI AND WASHINGTON  
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A US permanent residency card, commonly known as a "green card," is proof of one's legal residency and eligibility to apply for full citizenship in the US.

The card, issued by the US Citizenship and Immigration Service (USCIS) under the Department of Homeland Security, attests that its holder, a lawful permanent resident (LPR), has been officially granted immigration benefits such as permission to reside and take employment in the US.

The US immigration law stipulates that a LPR can apply for US citizenship after five years of permanent resident status through the process of naturalization. The waiting time for someone married to a US citizen is reduced to three years.

Green card holders must maintain permanent residence status in order to avoid losing that status.

Once a green card is taken away, it cannot be reissued unless applicants start the whole process over, and their absence from the country would weigh against them, immigration lawyers say.

There are at least six ways one can lose LPR status other than becoming a US citizen under section 237 of the Immigration and Nationality Act, the USCIS Web site says.

One way to lose LPR status is by moving to another country with the intent to live there permanently.

Another is to remain outside of the US for more than one year without obtaining a reentry permit or returning resident visa.

A third way is remain outside of the US for more than two years after issuance of a reentry permit without obtaining a returning resident visa.

In the aforementioned cases, in determining whether a person's status has been abandoned, any length of absence from the US may be considered, even if it is less than one year.

Cara Jobson, an immigration attorney based in San Francisco, said an individual could also lose

their LPR status if he or she committed certain crimes. In those circumstances, they would lose their green card after a hearing before an immigration judge who determined that they were removable from the US, Jobson said.

The last two ways include failing to file income taxes while living outside the US for any period or declaring oneself as a "nonimmigrant" on his or her tax returns.

Tao Lin (林志濤), immigration attorney and partner at the New York-based law firm of Caesar and Napoli, said an LPR could also voluntarily relinquish his or her permanent residency by filling out an Abandonment of Alien Status as a Lawful Permanent Resident form I-407.

Lin said, however, filling out an I-407 form is not the only way to relinquish one's green card because if a "LPR is out of the US continuously for more than one year, the US Department of Homeland Security takes the position that residency has been abandoned."

If the person wishes to abandon his LPR privileges and relinquish the card in Taiwan, the American Institute in Taipei official Web site said, one must present the old and new passport and green card to the Immigrant Visa Unit Information Window No. 8.

However, US immigration law is complex and the situation is not necessarily black-and-white, one immigration lawyer said.

In the case of Chinese Nationalist Party (KMT) presidential candidate Ma Ying-jeou (馬英九), a key question is whether he effectively gave up his green card when he entered the US on a non-immigrant "B" tourist visa in the 1980s.

On this question, Thomas Fan, a leading Washington immigration lawyer, said that entry on a tourist visa was the same as forfeiting a green card.

"If you are a permanent resident in the United States, when you come back to the United States you don't have to have a visa," Fan said.

"If you come back to the United States, and before you come back you go to a US consulate to get a B [tourist] visa, you are a tourist to the United States, and you are not a permanent resident any more. That's a de facto statement saying you are not a permanent resident," Fan said.

However, one lawyer, Yang Ta-yu of Des Moines, Iowa, cites a different consideration in the Ma case. Yang said when Ma came to the US on a visa, he was representing the government under then president Chiang Ching-kuo (蔣經國).

If a person entered the US as a Taiwanese official, "it would not be good to use the American LPR [legal permanent resident card] to come in," he said.

In that case, "since I am a Taiwanese official, I would use my Taiwanese passport. So, if I get the pertinent visa, I don't necessarily lose my LPR because I got that [visa]," Yang said.

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