

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WILLIAM A. BUTLER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0692

Decision No. CU 1810

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$32,284.00 was presented by WILLIAM A. BUTLER based upon the asserted loss of improved realty in Cuba. Claimant has been a national of the United States since his birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba

and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The record contains a copy of a deed, dated May 17, 1957, between claimant and Territorial Rosario, S.A., transferring title to claimant of a lot at 23201 33rd Avenue, Barrio San Agustin, Marianao, Havana. Accompanying the deed mentioned above is a copy of Registry No. 478/58-57, issued by the Municipality of Marianao, certifying that a house was built on claimant's lot and that it was habitable. Based on the record, the Commission finds that claimant was the owner of a house and lot located at No. 23201 33rd Avenue, Barrio San Agustin, Mariano, Havana, Cuba.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). The law further provided that if a tenant did not occupy the property, or had subleased or transferred its use to another, the property could be sold to the occupant; and further, that an occupant, whether a tenant or subtenant, or not, could purchase the property in the manner outlined (Article 9). Article 21 of the law provided that present owners of urban buildings sold under the law should receive the assigned price; however, under Article 25 ownership of so-called tenement houses would be transferred to the State without compensation to the erstwhile owners. Moreover, Article 30 provided that if urban buildings transferred under the law were mortgaged, execution of the contract of sale should have the effect of canceling the mortgage. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Claimant states that he left Cuba on or about August 8, 1960.

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in Havana, Cuba, was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette.

Accordingly, the Commission concludes that claimant suffered a loss of his real property within the meaning of Title V of the Act.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

Claimant states the lot was acquired for \$5,236.00 and that the house had a value of \$27,048.00.

The evidence of record including the deed, architect's floor plan, photographs, reflects that claimant's lot measured 1031.6 square meters was acquired for \$5,236.00 and was improved by a house constructed in 1957 of brick and plaster, with a reinforced concrete roof and terazzo floors, having a two-car carport, porch, living room, dining room, kitchen, laundry room, storage room, four bedrooms, two baths, and maid's room with bath; with 330 square meters of floor space.

In support of the asserted value of the improvements, claimant has submitted an itemized breakdown of the costs of building the house, summarized as follows:

Building materials	\$15,314.00
Labor costs	9,376.00
Fees (municipal, legal, etc. includes \$1,823.00 architects fee)	<u>2,358.00</u>
TOTAL	\$27,048.00

Based on the entire record, the Commission finds that the land, including improvements, had a value of \$32,284.00. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$32,284.00 within the meaning of Title V of the Act, as the result of the taking of his realty by the Government of Cuba on October 14, 1960.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 14, 1960, date of taking, to the date of settlement.

CERTIFICATION OF LOSS

The Commission certifies that WILLIAM A. BUTLER suffered a loss, as a result of the actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-Two Thousand Two Hundred Eighty-Four Dollars (\$32,284.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAY 1 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)