

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

IN THE MATTER OF THE CLAIM OF

AGNES FALSHAW BOYER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0771

Decision No. CU 877

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by AGNES FALSHAW BOYER in the amount of \$2,500.00 based upon the asserted ownership and loss of an interest in land. Claimant has been a national of the United States since naturalization in 1959.

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 504 of the Act provides, as to Ownership of Claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

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.

Claimant asserts that she lost an investment in real property in Cuba valued at \$2,500.00. The record contains a recorded contract of purchase dated December 5, 1957 and various tax statements. These documents indicate that on December 5, 1957, the claimant purchased a tract of land in Nueva Gerona, Isle of Pines, Havana, Cuba, described as the northwest part of Lot 11 of Section 7 of the estate "Santa Rosalia". Purchase price for the land according to the terms of the purchase agreement was 2400 pesos. Tax records indicate that the claimant was still the registered owner of this property on March 15, 1960. At the time of purchase, pesos and U. S. dollars were exchangeable for one another at par. Therefore, the cost of the property in U. S. currency was \$2,400.00. In correspondence to the Commission, MRS. BOYER, the claimant, asserts that she paid \$2,500.00 for the land and that in addition she had a land survey made at a cost of \$50.00. However, no documentary evidence has been submitted in support of these figures.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

Claimant states that she last visited Cuba in 1956. The Commission finds, in the absence of evidence to the contrary, that the subject real property was owned by the claimant and that it was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record the Commission finds that the land had a value of \$8,400.00. Accordingly, the Commission concludes that the claimant suffered a loss in the amount of \$8,400.00, within the meaning of Title V of the Act.

The Commission has decided that in certification of losses on claims denominated 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 the Opinion of Judge Heppner, EGSC Claim No. G-26514).

Accordingly, the Commission concludes that the amount of the loss awarded by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

The Commission certifies that AGNES FALSHAW BOYER suffered a loss, as a result of 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 Two Thousand Four Hundred Dollars and No Cents (\$2,400.00), with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

8 JAN 1968

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the Final
decision on FEB 6 1968

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).)

CU-0771