

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

IN THE MATTER OF THE CLAIM OF

BEATRICE H. KILLELEA  
MARY D. HASMAN and  
KATHRYN A. SCHLUNG

Claim No. CU -0811

Decision No. CU 4285

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimants:

Donald E. Nagle, Esq.

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 BEATRICE H. KILLELEA, MARY D. HASMAN and KATHRYN A. SCHLUNG in an unstated amount based upon the asserted ownership and loss of land on the Isle of Pines, Cuba. Claimants have been nationals of the United States since 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.

Claimants describe their loss as lands described in a sales contract as having an area of five acres.

Evidence of record discloses that in 1917 claimants' mother, Anna H. Scanlon, purchased two parcels of property on the Isle of Pines, the first described as parcel 348, of lot 1, of section 31 of the area known as "West McKinley" in Santa Barbara, as well as plot 5 of block 84, in the same development. Both parcels had an aggregate area of five acres. Anna H. Scanlon died in 1949 devising the property to the claimants herein.

The record further shows that the first item (being part of lot 1, section 31) was attached by the Municipality for nonpayment of taxes and title transferred to another. Accordingly, the Commission is constrained to find that claimants had no interest in this item of property at any time after January 1, 1959, when it might have been subjected to measures of the Cuban Government.

The Commission finds, however, that claimants were the owners of the parcel known as plot 5 of block 84 of McKinley, consisting of 696.2 square meters.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, 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.

The Commission finds, in the absence of evidence to the contrary, that the said real property consisting of 696.2 square meters was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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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.

Claimants have been unable to ascertain the value of the property. However, based on evidence available to the Commission of values of other properties in that area, the Commission finds that lot 5 of block 84 had a value of \$699.00 on the date of loss. Accordingly, the Commission concludes that claimants suffered a loss in that aggregate amount within the meaning of Title V of the Act, as the result of the taking of their property by the Government of Cuba on December 6, 1961.

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), and in the instant case it is so ordered.

#### CERTIFICATION OF LOSS

The Commission certifies that BEATRICE H. KILLELEA 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 Hundred Thirty-three Dollars (\$233.00) with interest at 6% per annum from December 6, 1961 to the date of settlement;

The Commission certifies that MARY D. HASMAN 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 Hundred Thirty-three Dollars (\$233.00) with interest at 6% per annum from December 6, 1961 to the date of settlement; and

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The Commission certifies that KATHRYN A. SCHLUNG 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 Hundred Thirty-three Dollars (\$233.00) with interest 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

**DEC 10 1969**

*Theodore Jaffe*

**Theodore Jaffe, Commissioner**

*Sidney Freidberg*

**Sidney Freidberg, 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).)

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