

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

IN THE MATTER OF THE CLAIM OF

CONSUELO C. MIRA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1036

Decision No. CU
2097

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$32,500.00 was presented by CONSUELO C. MIRA based upon the asserted loss of an one-half interest in improved realty, and a bank account in Cuba. Claimant has been a national of the United States since her naturalization in 1949.

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, inter-
vened, or taken by the Government of Cuba.

The record establishes that claimant owned a one-half interest in improved real property at 48 Independencia Street, in Sancti Spiritus, Santa Clara, Cuba, which was used as a cafe.

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.

Based on the foregoing and the evidence of record, the Commission finds that claimant's one-half interest in the real property in Santa Clara, 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. (See Claim of Henry Lewis Slade, CU-0183).

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 has valued her interest in real property at \$22,500.00.

Claimant has submitted copy of a letter from an engineer formerly with a professional firm in Havana describing the house as made of brick, being 75 years old, having a value of \$5,000.00 and the lot because of location having a value of \$40,000.00.

Based on the entire record, the Commission finds that the land, including improvements, had a value of \$45,000.00. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$22,500.00 within the meaning of Title V of the Act, as the result of the taking of her interest in the realty by the Government of Cuba as of October 14, 1960.

Claim has also been asserted for the sum of \$10,000.00 representing monies held in trust for claimant in a bank in Cuba. It appears that this fund is described as part of claimant's inheritance from her father. It appears that the fund arose from the sale in 1954 of properties owned jointly by claimant, her sister and her mother, the latter being both non-United States nationals.

In the absence of evidence confirming when claimant became sole owner of the account, held in the Bank of Boston, the Commission holds that claimant has not established this item of the claim. Accordingly, this portion of the claim is denied.

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 loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$22,500.00 from October 14, 1960 to the date on which the provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that CONSUELO C. MIRA 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 Twenty-Two Thousand Five Hundred Dollars (\$22,500.00) 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

JUL 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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).)