

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

IN THE MATTER OF THE CLAIM OF

THEODORE HELLER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2962

Decision No. CU

1962

Counsel for claimant:

Richard J. Beamish, III, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$760.00, was presented by THEODORE HELLER and is based upon the asserted loss of real property situated 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.

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.

Claimant contends that he paid a total cash price of \$760.00 for real property located at Santa Barbara Gardens, Isle of Pines, Cuba. The record contains a copy of an "Agreement for Deed", executed February 16, 1959 by claimant as purchaser and Edward S. Pearson as agent for Santa Barbara Development, Inc. The agreement recites that claimant purchases the land known as Lots 6 and 7, Block 3 of Santa Barbara Gardens, in fee; claimant agrees to make certain monthly installment payments until the full purchase price is paid. The recited price is \$760.00 for Lot 6 and \$695.00 for Lot 7.

The record also contains a copy of a receipt dated June 12, 1961, signed by Edward S. Pearson, which recites that claimant has made the final payment on Lot 6, Block 3. No mention is made of Lot 7.

On the basis of the evidence of record, and in the absence of additional or contrary evidence, the Commission finds that claimant was the owner of the land know as Lot 6, Block 3 of Santa Barbara Gardens, and that the property had a value of \$760.00.

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 record establishes that in July 1961, claimant was resident in the State of Oklahoma. The Commission therefore finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Consequently, the Commission concludes that claimant suffered a loss, within the meaning of Title V of the Act, on December 6, 1961, in the amount of \$760.00.

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.)

The Commission therefore concludes that the amount of loss sustained by claimant 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 provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that THEODORE HELLER 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 Seven Hundred Sixty Dollars (\$760.00) 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

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

JUN 13 1968

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).)