

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

IN THE MATTER OF THE CLAIM OF

ANDREW O. MURI

Claim No. CU-3642

Decision No. CU-591

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

By Proposed Decision dated November 15, 1967, the Commission certified a loss to the claimant, ANDREW O. MURI, in the amount of Eight Thousand Five Hundred Thirty-Seven Dollars (\$8,537.00) based upon the loss of 110 acres of land in the Santa Rosalia Estates, District of Caballos, Isle of Pines, Cuba. Subsequently, claimant submitted additional evidence pertaining to the value of the acreage, subject of the claim.

That evidence includes, among other things, an affidavit of George T. Crawford, dated January 31, 1968, who acted as a broker in the International Realty Company of Miami Springs, Florida, and as agent to claimant in the purchase of the land which is the subject of this claim. Affiant advised that the sales price shown in the Cuban deeds, such as those executed in the instant claim, were nominal values and did not reflect the actual selling price. Mr. Crawford further stated that claimant paid \$4,000.00, including fees of \$500.00, for two adjoining 10 acre lots (Southern 1/4 of Lot 12 and Northern 1/4 of Lot 12, both of Section 17, Hacienda Santa Rosalia, Isle of Pines, Cuba, as shown in Deed No. 40, dated February 11, 1959); and that claimant paid \$10,000.00 for a 60 acre tract (West 1/2 of Lot 9 and all of Lot 16, Section 20, Hacienda Santa Rosalia, Isle of Pines, Cuba, as shown by Deed No. 77, April 1, 1959).

The evidence of record also includes a letter from Mr. Crawford to claimant, dated February 20, 1959, in which the fees incident to the purchase of

the two adjoining 10 acre tracts are set forth, in total amount of \$500.00. A similar letter dated March 2, 1959, discloses that the fees incident to the purchase of the 30 acre tract amounted to \$607.00.

Having reconsidered the entire record in this claim, including claimant's objections and the evidence submitted subsequent to the Proposed Decision, the Commission now finds that the subject property had a value, at the time of loss, of \$19,607.00, and concludes that claimant suffered a loss in that amount as a result of the taking of his property by the Government of Cuba on December 6, 1961.

Accordingly, the certification of loss is restated below, and the remainder of the Proposed Decision, as amended herein, is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that ANDREW O. MURI 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 Nineteen Thousand Six Hundred Seven Dollars (\$19,607.00) with interest thereon at 6% per annum from the date of loss to the date of settlement.

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

Leonard V. B. Sutton
Leonard V. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

JUN 19 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 Amended 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-3642

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

IN THE MATTER OF THE CLAIM OF

ANDREW O. MURI

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3642

Decision No. CU

591

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 ANDREW O. MURI, for \$19,599.22, based upon the asserted ownership and loss of an interest in land and expenses incurred in purchasing the land. Claimant has been a national of the United since his naturalization on August 23, 1943 at Eagle, Colorado.

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 the 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 he lost an investment in real property valued at \$19,200.00. No evidence has been submitted to establish this amount.

The record contains three deeds dated respectively February 11, 1959, February 27, 1959, and April 1, 1959 between Frank Cooper as grantor and the claimant as grantee. The grantor conveys 20 acres of land in Lot 12 of section 16 and Lot 13 of section 17 of Santa Rosalia, Isle of Pines, Cuba, for 1,000 pesos; 30 acres of land in Lot 10 in section 17 of Santa Rosalia for 1,500 pesos and 60 acres of land comprising the west 1/2 of lot 9, and lot 16 of section 20 of Santa Rosalia for \$6,000.00. Claimant states that his investment in the aforementioned realty also included transfer taxes, fees, and closing costs in the amount of \$37.00.

On the basis of the entire record and the state of Cuban Law at the time of the transaction, the Commission finds that claimant, ANDREW O. MURI, became the owner of the above-mentioned properties in Santa Rosalia, Isle of Pines, Cuba. (See the Claim of Wallace Tabor and Catherine Tabor, FCSC Claim No. CU-0109).

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. As the record shows, claimant resided in the United States at that time. The Commission 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.

Based on the entire record the Commission finds that the subject land had a total value of \$8,537.00 at the time of loss, and concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act.

The Commission has decided that in the 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the the amount of the 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 provisions are made for the settlement thereof.

A portion of this claim in the amount of \$362.22 is based upon the expenses which claimant states were incurred by him in purchasing the subject property: his airplane fare to Cuba, his hotel bill, his restaurant bill, etc. After consideration of the statute and the legislative history of the Act, the Commission finds that expenses incurred in the purchase of land which was taken by the Government of Cuba was not intended by Congress to constitute a loss resulting from the nationalization, expropriation, intervention or other taking of, or special measure directed

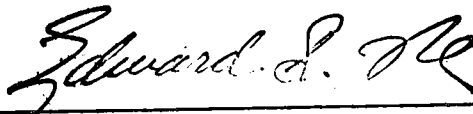
against property of nationals of the United States by the Government of Cuba within the meaning of Section 502(3) of the Act. Accordingly, this portion of the claim is denied (See the Claim of Mary Pauline Seal, FCSC Claim No. CU-0059).

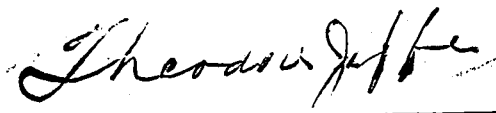
CERTIFICATION OF LOSS

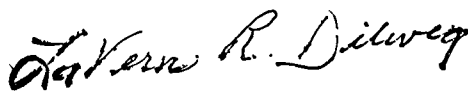
The Commission certifies that ANDREW O. MURI suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eight Thousand Five Hundred Thirty-Seven Dollars (\$8,537.00), with interest thereon 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

15 NOV 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, Commissioner

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CU-3642