

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

IN THE MATTER OF THE CLAIM OF

ALFRED A. LACAZETTE
and
MARIA C. LACAZETTE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -4789

Decision No. CU 5407

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 \$132,647.22, was presented originally by ALFRED A. LACAZETTE based upon the asserted losses of interests in certain real properties in Cuba and a bank account at a Cuban bank. Since the evidence indicated that his wife, MARIA C. LACAZETTE, owned interests in the properties, she has been added as party claimant. Both claimants have been nationals of the United States since June 26, 1934.

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.

The Commission's Regulations provide that claims under Title V of the Act (Cuban Claims) shall be filed with the Commission on or before May 1, 1967, (FCSC Reg., 45 C.F.R. See 531.1(d) (Supp. 1967)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g).)

No claim was filed with this Commission by or on behalf of claimants within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning their asserted losses.

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.) This is such a claim.

Claimants assert the following losses:

Land Parcels

A. 410-420 Calzada Diez de Octubre Street, Havana	\$ 34,650.00	
B. 455 Enrique Villuendas Street, Havana	4,950.00	
C. 120 Mercaderes Street, Havana	9,950.00	
D. 600-668 Enrique Villuendas Street, Havana	4,590.00	
E. Playa de Tarara, Guanabacoa	<u>15,000.00</u>	\$ 69,140.00

Buildings

Parcels A through D	\$ 54,167.80	
Less Depreciation	<u>11,829.87</u>	
	42,337.93	
Parcel E	<u>20,000.00</u>	\$ 62,337.93

Cash

Cash in Bank	\$ 1,857.79	
Less Outstanding Checks and Bank Charges	<u>688.50</u>	
		\$ <u>1,169.29</u>

TOTAL

\$132,647.22

Real Property

The record includes a copy of an affidavit, dated January 25, 1962, from claimants' attorney in Cuba attesting to the acquisition and values of the five items of improved real property claimed herein; reports from abroad substantially corroborating the Cuban attorney's statements; copies of extracts from claimants' tax returns and correspondence from the Internal Revenue Service; and claimants' statements concerning the claim.

On the basis of the entire record, the Commission finds that claimants each owned 1/2 interests in the real properties claimed, except as noted below, pursuant to the community property laws of Cuba. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915) Claimants state that their real properties in Havana were taken by the Government of Cuba under the Urban Reform Law of 1960. It further appears that claimants were allowed income tax deductions on the basis of a taking of the real properties on October 14, 1960, the effective date of the law.

The Commission finds that the real properties were within the purview of the Urban Reform Law, published in the Cuban Official Gazette on October 14, 1960. In the absence of evidence to the contrary, the Commission finds that the properties were taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

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.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

As indicated above, claimants asserted separate valuations for each of the five parcels of land in question, and lump the asserted valuations of the buildings without any breakdown. It was noted, moreover, that the amounts claimed for the land parcels alone are identical with the values set forth for the improved real properties, including the buildings, in the affidavit of claimants' Cuban attorney and substantially corroborated by the reports from abroad. Accordingly, the Commission suggested on several occasions that evidence be submitted to support claimants' valuations. However, no such evidence has been filed to date.

Upon consideration of the entire record, the Commission finds that the valuations most appropriate to the properties and equitable to the claimants are those appearing in the affidavit of January 25, 1962 from claimants' Cuban attorney as follows:

410-420 Calzada Diez de Octubre Street

The Commission finds that claimants each owned a 1/2 interest in the improved real property at 410-420 Calzada Diez de Octubre Street, and that the value of the property on October 14, 1960, the date of loss, was \$34,650.00. Therefore, each claimant sustained a loss in the amount of \$17,325.00.

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455 Enrique Villuendas Street

The Commission finds that ALFRED A. LACAZETTE alone owned the improved real property at 455 Enrique Villuendas Street, having acquired title thereto through inheritance from his late mother. Since the property was inherited, it was not subject to the community property laws of Cuba. The Commission further finds the value of the property on October 14, 1960 was \$4,950.00.

120 Mercaderes Street

The Commission finds that ALFRED A. LACAZETTE inherited a 1/2 interest in the improved real property at 120 Mercaderes Street in 1947, and that he and his wife purchased the other 1/2 interest therein in 1948. Accordingly, ALFRED A. LACAZETTE owned a 3/4 interest in the property and his wife owned a 1/4 interest. The Commission further finds that the value of the property on October 14, 1960 was \$9,950.00. Therefore, claimants sustained losses in the amounts of \$7,462.50 and \$2,487.50, respectively.

600-668 Enrique Villuendas Street

The Commission finds that ALFRED A. LACAZETTE alone owned the improved real property at 600-668 Enrique Villuendas Street, having acquired title through inheritance from his late mother. The Commission further finds that the value of the property on October 14, 1960 was \$4,590.00.

Playa de Tarara

The Commission finds that claimants each owned a 1/2 interest in the improved real property at Plaza de Tarara, and that the value of the property on October 14, 1960 was \$15,000.00. Therefore, each claimant sustained a loss in the amount of \$7,500.00

Bank Account

Based upon a copy of a bank statement, dated September 30, 1960, the Commission finds that claimants each owned a 1/2 interest in a bank account at the First National City Bank of New York, Havana Branch.

Law 989, published in the Cuban Official Gazette on December 6, 1961, by its terms effected the confiscation of all goods and chattels, rights, shares, stocks, bonds, and other securities, as well as bank accounts of persons who left Cuba. The Commission finds that this law applied to claimants, who left Cuba prior to that date. The Commission, therefore, finds that claimants' bank account was taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

The bank statement shows that as of August 31, 1960 claimants' credit balance was 1,857.79 pesos, equivalent to \$1,857.79. It further appears that as a result of outstanding checks and bank charges not reflected in that statement the credit balance was \$1,169.29. The Commission, therefore, finds that the value of claimants' bank account on December 6, 1961, the date of loss, was \$1,169.29. Therefore, Mr. and Mrs. LACAZETTE sustained losses in the amounts of \$584.65 and \$584.64, respectively.

Recapitulation

Claimants' losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>ALFRED A. LACAZETTE</u>		
Parcel A and Building	October 14, 1960	\$17,325.00
Parcel B and Building	October 14, 1960	4,950.00
Parcel C and Building	October 14, 1960	7,462.50
Parcel D and Building	October 14, 1960	4,590.00
Parcel E and Building	October 14, 1960	7,500.00
Bank Account	December 6, 1961	<u>584.65</u>
TOTAL		<u>\$42,412.15</u>

<u>MARIA C. LACAZETTE</u>		
Parcel A and Building	October 14, 1960	\$17,325.00
Parcel C and Building	October 14, 1960	2,487.50
Parcel E and Building	October 14, 1960	7,500.00
Bank Account	December 6, 1961	<u>584.64</u>
TOTAL		<u>\$27,897.14</u>

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 as follows:

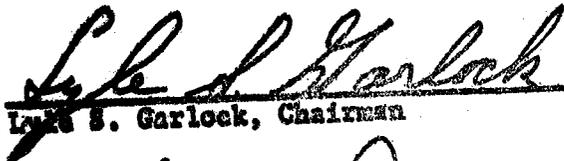
CERTIFICATIONS OF LOSS

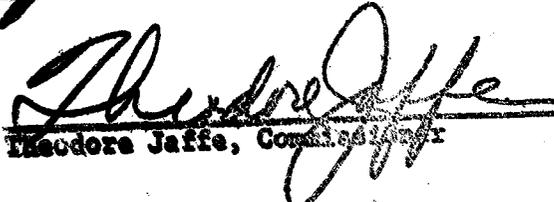
The Commission certifies that ALFRED A. LACAZETTE suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-two Thousand Four Hundred Twelve Dollars and Fifteen Cents (\$42,412.15) with interest at 6% per annum from October 14, 1960 on \$41,827.50 and from December 6, 1961 on \$584.65, to the date of settlement; and

The Commission certifies that MARIA C. LACAZETTE 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-seven Thousand Eight Hundred Ninety-seven Dollars and Fourteen Cents (\$27,897.14) with interest at 6% per annum from October 14, 1960 on \$27,312.50 and from December 6, 1961 on \$584.64, to the date of settlement.

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

JUL 29 1970


Louis S. Garlock, Chairman


Theodore Jaffe, Commissioner


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).)