

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

IN THE MATTER OF THE CLAIM OF

HERBERT S. HILTON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0146

Decision No. CU 3002

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amended amount of \$77,500.00, was presented by HERBERT S. HILTON based upon the asserted loss of improved and unimproved realty in Cuba. Claimant has been a national of the United States since his birth in the United States.

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 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 asserts that he was the owner of the following items of real property:

1. Unimproved realty: Plot 5 of Block 69, Reparto Celimar, Guanabacoa, Havana, Cuba.
2. Unimproved realty: Ciudad Jardin property - a 4,750 square meter lot fronting Avenue Los Aloros, Havana, Cuba.
3. Improved realty: #205 Avenida 5A, Marianao, Havana, Cuba. Legal description: Solar B of Block 35, Reparto Miramar, Marianao, Havana, Cuba.
4. Unimproved realty: Lot 6 of Block 6, Alturas de Country Club subdivision, Marianao, Havana, Cuba.
5. Improved realty: #29A-14 72nd Street, Marianao, Havana, Cuba. Legal description: Lot 12 of Block 139, Reparto Buenavista, Marianao, Havana, Cuba.

The evidence of record includes copies of deeds and contracts, tax receipts, and other data regarding the subject realty, as well as the affidavit of a Cuban attorney who served as counsel to claimant in Cuba and assisted him in the purchase of the subject realty. Said affidavit lists the values for the property as follows:

I. Celimar property (land)	\$ 4,500.00
II. Ciudad Jardin property (land)	5,000.00
III. Country Club property (land)	9,000.00
IV. Buenavista property (land and building)	14,000.00
V. Miramar property (land and building)	<u>45,000.00</u>
	\$77,500.00

Under Cuban community property law, a wife is entitled to a one-half interest in property acquired by her husband during coverture. (par. 1401 Civil Code of Cuba) The deeds reflect that claimant was married to Marta Hilton at the time the subject realty was acquired. The record also establishes that Marta Hilton was a Cuban national at the time of acquisition, and that she did not become a United States national until October 15, 1965. The Commission holds that Section 504 of the Act, supra, bars the claim of Marta Hilton for her one-half interest in the subject realty.

Based on the evidence of record, the Commission finds that claimant, HERBERT S. HILTON, was the owner of a one-half interest in the subject realty.

The Government of Cuba, on December 6, 1961, published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all real and personal property, assets, rights, shares, stocks, bonds, and securities of persons who had left the country.

As the record indicates, claimant left Cuba in 1960 and has since been resident in the United States. Accordingly, the Commission finds, in absence of evidence to the contrary, that the subject realty was confiscated by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace and Katherine Tabor, CU-0109).

Claimant has stated the amount of his loss as \$77,500.00, computed as follows:

Reparto Celimar property	\$ 4,500.00
Ciudad Jardin property	5,000.00
Reparto Miramar property	45,000.00
Country Club property	9,000.00
Reparto Buenavista property	<u>14,000.00</u>
	\$77,500.00

After consideration of all the evidence of record, including the deeds, tax receipts, and the affidavit of Dr. Mederos, as well as information available to the Commission, the Commission finds that the value of the subject realty based upon stated cost figures on the date of loss was as follows:

Reparto Celimar property	\$ 3,785.76
Ciudad Jardin property	3,087.00
Reparto Miramar property	33,425.00
Country Club property	2,706.32
Reparto Buenavista property	<u>12,500.00</u>
	\$55,504.08

The Commission further finds that the value of claimant's one-half interest in the subject realty was \$27,752.04 and that claimant sustained a loss in that amount as a result of the confiscation of the subject realty 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 for 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 6% per annum from the December 6, 1961 date of taking to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that HERBERT S. HILTON 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 Twenty-Seven Thousand Seven Hundred Fifty-Two Dollars and Four Cents (\$27,752.04) with interest thereon at 6% per annum from the December 6, 1961 date of loss to the date of settlement.

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

SEP 4 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).)