

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

IN THE MATTER OF THE CLAIM OF

BEATRICE T. GOVIN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0223

Decision No. CU 5835

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 BEATRICE T. GOVIN for \$115,000.00 based upon the asserted ownership and loss of a one-half interest in improved realty and furnishings; and certain bonds. Claimant has been a national of the United States since 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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1969).)

Claimant describes her losses as follows:

Land - 1/2 interest	\$ 5,500.00
Building - 1/2 interest	49,500.00
Furnishings - 1/2 interest	20,000.00
8 bonds of Fondo de Inversiones FHA	<u>40,000.00</u>
	\$115,000.00

Claimant submitted her claim with no supporting evidence and has not responded to Commission letters. However, a related State Department file was found to include a photocopy and translation of a deed for purchase of land by claimant and her husband; claimant's affidavit of August 15, 1962 describing the house which she asserts cost \$96,000.00 to build, and her 10-page inventory of the personal property which she estimated had a value of \$40,000.00. This list does not give dates of purchase, consideration paid, nor whether the overall asserted value took cognizance of any appropriate depreciation. Additionally the record includes copy of a letter written from Cuba on May 20, 1961 describing the intervention of the house on the preceding day, for the purpose of utilizing it as a school.

On the basis of the entire record, the Commission finds that claimant owned a one-half interest in the improved realty at 1921-150th Street, Country Club Park, Marianao, and the furnishings therein.

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 were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

Based on the foregoing and the evidence of record, the Commission finds that the subject improved real property in Marianao was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; that the

taking occurred on May 19, 1961. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) The Commission further finds that the furnishings were taken by the Government of Cuba on the same date.

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 record includes, in support of the claimed value of the improved realty the photocopy of the deed showing that the sales tax was estimated on the payment of \$11,636.00; claimant's affidavit that landscaping was performed at a cost of \$3,000.00; and the description of the house as three floors: the ground floor encompassing a 2-car garage, a laundry, two servants' rooms, a bath, water cistern and utility room; the second floor having an entrance, hall, living room, dining room, bar, front room, front and back terraces, and a bath; and the third floor having four bedrooms and three baths. No evidence is of record as to the asserted cost of \$96,000.00.

Based on this record the Commission finds that the land, including the landscaping had a value of \$14,636.00, and the house, including an allowance for utilities, had a value of \$19,250.00, a total of \$33,886.00.

The listing of personalty, as stated above contains no indication of dates of acquisition, consideration paid or whether the asserted value is a depreciated value, or not. However, the Commission holds that the house had some furnishings of value and in relation to the house finds their value as \$2,000.00.

Accordingly the Commission concludes that claimant suffered a loss in the amount of \$17,943.00 within the meaning of Title V of the Act, as the result of the taking of her one-half interest in the property by the Government of Cuba on May 19, 1961.

Claimant has submitted no evidence in support of her claim for eight \$5,000 FHA bonds. This was suggested in letters to her of July 7, 1966, November 9, 1966 and March 14, 1968 none of which letters were returned to the Commission. Accordingly, the Commission holds that claimant has not sustained the burden of proof with respect to this item of claim, and it is hereby denied.

A further notice to the claimant under date of November 27, 1968, was returned to the Commission with the notation "Moved - Left No Address." Further efforts to locate the claimant have been unavailing.

The Regulations of the Commission provide:

Service by first class mail shall be regarded as complete, upon deposit in the United States mail properly stamped and addressed. [FCSC Reg., 45 C.F.R. §501.3(d) (1969).]

Without previous hearing, the Commission may issue a proposed decision in determination of a claim. [FCSC Reg., 45 C.F.R. §531.5(b) (1969).]

Such proposed decision shall be delivered to the claimant or his attorney of record in person or by mail. Delivery by mail shall be deemed completed 5 days after the mailing of such proposed decision addressed to the last known address of the claimant or his attorney of record. One copy of the proposed decision shall be available for public inspection at the office of the Commission. Notice of proposed decision shall be posted on the bulletin board at the office of the Commission on the day of its issuance and for 20 days thereafter. [FCSC Reg., 45 C.F.R. §531.5(c) (1969).]

A copy of this Proposed Decision shall be mailed to claimant's last known address, one copy shall be available for public inspection at the office of the Commission, and notice of this Proposed Decision shall be posted on the Commission's bulletin board on the day of its issuance and for 20 days thereafter. The foregoing shall constitute service of the Proposed Decision in accordance with Sections 501 and 531 of the Commission Regulations.

The Commission has decided that in certifications of loss 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.

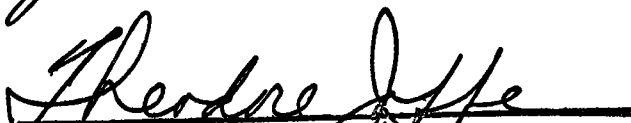
CERTIFICATION OF LOSS

The Commission certifies that BEATRICE T. GOVIN 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 Seventeen Thousand Nine Hundred Forty-three Dollars (\$17,943.00) with interest at 6% per annum from May 19, 1961 to the date of settlement.

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

SEP 16 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, 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. 31.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)