

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

IN THE MATTER OF THE CLAIM OF

ERNESTINA VILLA

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0276

Decision No. CU 4733

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 ERNESTINA VILLA for \$12,743.49 based upon the asserted ownership and loss of certain real and personal property in Cuba. Claimant has been a national of the United States since her naturalization in 1951.

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.

Claimant describes her loss as follows:

One-sixth interest in five improved real properties in Havana, Vedado and Marianao, Cuba	\$12,166.66
One-sixth interest in personal property	416.66
Payment on account for two lots in the Isle of Pines	<u>160.17</u>
	\$12,743.49

Based upon the entire record, including an original copy of an instrument of protocolization, a copy of the protocolization of claimant's father's last will, the original contracts to purchase the two lots on the Isle of Pines, and a list of household furnishings, the Commission finds that claimant owned a one-sixth interest in the real and personal property in question and had paid the amount claimed on the two lots on the Isle of Pines.

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 was outlawed (Article 2).

On December 6, 1961, the Cuban Government published its Law 989 which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

Based on the foregoing and the evidence of record, the Commission finds that claimant's improved real and personal property in Cuba was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette (see Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39), and that her interest in the two lots in the Isle of Pines was taken on December 6, 1961 pursuant to the provisions of Cuban Law 989 (see Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

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 values, reports from abroad, estimates of value contained in the instrument of protocolization prepared on July 9, 1956, and a description of the five improved real properties and of the two lots.

The improved real properties are described as follows:

1. A one-story brick house at No. 314 - 98th Street, Miramar, Marianao, with monolithic roof, Cuban tile floor, having about 8 rooms, garage, and usual facilities, measuring about 269 square meters and assessed at \$10,000.00.
2. A two-story masonry and brick apartment house at 19th and 8th Streets, Vedado, Havana, comprising 16 apartments, each with 6 rooms and a porch on a lot of 1,033 square meters; assessed at \$50,000.00 and encumbered with a \$21,000.00 mortgage.
3. A brick apartment house at 25 Vista Hermosa Street, Havana, comprising 6 apartments, and a small store. Five of the apartments consist of 5 rooms and patio. The sixth has an extra bedroom. The building occupies the entire lot of about 732 square meters, and the property is assessed at \$7,000.00.
4. A reinforced concrete house with brick walls at 35-20th Street, Miramar, Marianao, with Cuban tile floors, with about 11 rooms, servants' quarters, and usual facilities; and a detached building which includes a two-car garage and two bedrooms. The lot measures 900 square meters and the property is assessed at \$25,000.00 and is encumbered with a \$12,000.00 mortgage.
5. A two-story stone block house with masonry roof at No. 1 San Jacinto Street, Havana, on a lot of about 362 square meters. The assessment is \$14,000.00.

The two lots are described as being located in Nueva Gerona, Isle of Pines and as measuring about 733 square yards and 707 square yards, respectively.

Based on the entire record including evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that the valuations most appropriate to the improved real properties and equitable to the claimant are the assessed valuations furnished by the claimant. Accordingly, the Commission finds the values of the improved real properties on the date of loss were as follows:

1. Improved realty at No. 314 - 98th Street, Miramar, Marianao	\$10,000.00
2. Improved realty at 19th and 8th Streets, Vedado, Havana \$50,000.00 less \$21,000.00 mortgage	29,000.00
3. Improved realty at 25 Vista Hermosa Street, Havana	12,000.00
4. Improved realty at 35 - 20th Street, Miramar, Marianao \$25,000.00 less \$12,000.00 mortgage	13,000.00
5. Improved realty at No. 1 San Jacinto Street, Havana	<u>14,000.00</u>
Total	\$78,000.00

With regard to the portion of this claim based upon claimant's one-sixth interest in personalty in the houses at 35 - 20th Street, and at 314 - 98th Street, Miramar, Marianao, the Commission finds, upon consideration of claimant's listing, that \$416.66 is the fair and reasonable value of her one-sixth interest.

With regard to the portion of the claim based on payments made on account for the two lots in the Isle of Pines, the Commission finds the payments totaled \$160.17 (the peso being on a par with the United States dollar).

Accordingly, the Commission finds that the values of claimant's interests in the real and personal properties on the said dates of loss were as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>
One-sixth interest in the improved real properties	October 14, 1960	\$ 13,000.00
One-sixth interest in the personal property	October 14, 1960	416.66
Payments made on account of two lots	December 6, 1961	<u>160.17</u>
	Total	\$ 13,576.83

The Commission, therefore, concludes that claimant suffered a total loss in the amount of \$13,576.83 within the meaning of Title V of the Act as a result of the taking of the properties by the Government of Cuba.

It will be noted that the total amount of the loss found herein is in excess of the amount asserted by claimant. However, in determining the amounts of losses sustained, the Commission is not bound by any lesser or greater amount which may be asserted by claimant as the extent thereof.

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:

<u>FROM</u>	<u>ON</u>
October 14, 1960	\$13,416.66
December 6, 1961	<u>160.17</u>
	\$13,576.83

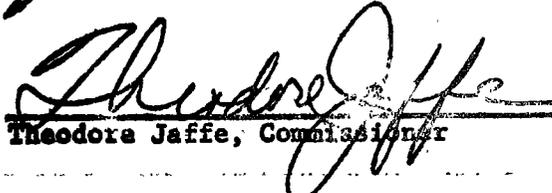
CERTIFICATION OF LOSS

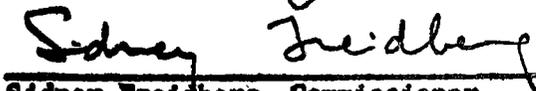
The Commission certifies that ERNESTINA VILLA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirteen Thousand Five Hundred Seventy-six Dollars and Eighty-three Cents (\$13,576.83) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

15 APR 1970

  
Lytle 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).)