

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

IN THE MATTER OF THE CLAIM OF

LILLIAN L. UNANUE  
RICHARD D. UNANUE  
and  
JOSEPH M. UNANUE

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0443

Decision No. CU 5529

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 amount of \$20,135.66, was presented by LILLIAN L. UNANUE, RICHARD D. UNANUE and JOSEPH M. UNANUE based upon the asserted loss of certain real property and an account in Cuba. Claimants have been nationals of the United States at all pertinent times.

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 record includes a copy of a decree of distribution issued by a Cuban court on December 21, 1959 in connection with the estate of claimants' late father, and affidavits from the Cuban attorney who handled the estate. On the basis of the foregoing, the Commission finds that upon the death of claimants' father on January 13, 1959, claimants inherited his interests in certain real property in Cuba in equal shares. The evidence establishes and the Commission finds that the deceased had owned a plot of land in Guanabacoa, Cuba, and a cooperative apartment at 896 Calle 39, Alturas del Vedado, Cuba, which claimants jointly inherited.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under Article 2 of 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. The law covered residential, commercial, industrial and business office properties (Article 15). The Commission finds that the cooperative apartment was within the purview of the Urban Reform Law and was 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 said decree of distribution indicates that the cooperative apartment was appraised at \$27,529.09. Claimants and the Cuban attorney state that the appraised value is fair and reasonable. It further appears that the apartment had been subject to an outstanding mortgage in the amount of 14,798.42 pesos, equivalent to \$14,798.42. Subsequent payments reduced the mortgage so that on October 14, 1960, the date of loss, the balance of the mortgage was \$13,216.27.

Accordingly, the Commission finds that the value of claimants' equity in the cooperative apartment on October 14, 1960 was \$14,312.82. Therefore, each claimant's interest in the apartment had a value of \$4,770.94.

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The record shows that in addition to owning equal interests in the lot in Guanabacoa, Cuba, claimants jointly owned an account in Cuba which had been established while their Cuban attorney managed their real property. The balance in this account was \$1,822.84.

On December 6, 1961, the Cuban Government published Law 989, which confiscated all real property, personal property, rights, shares, stocks, bonds, securities and accounts of persons who had left the country. The Commission finds that this law applied to claimants, who had left Cuba prior to that date, and that their interests in the lot and the account were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]; Claim of Floyd W. Auld, Claim No. CU-0020, id. at 55.)

Based upon the decree of distribution, which indicates the appraised value of the lot, the Commission finds that the value of the lot on December 6, 1961, the date of loss, was \$4,000.00, the record showing that it was not encumbered by a mortgage or any other lien. Therefore, the values of claimants' interests therein were \$1,333.34 (LILLIAN), \$1,333.33 (RICHARD) and \$1,333.33 (JOSEPH).

The Commission further finds that the value of claimants' account in Cuba on December 6, 1961, the date of loss, was \$1,822.84. Therefore, the values of claimants' interests therein were \$607.61 (LILLIAN), \$607.62 (RICHARD) and \$607.61 (JOSEPH).

Claimants' losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>LILLIAN L. UNANUE</u>		
Cooperative Apartment	October 14, 1960	\$ 4,770.94
Lot	December 6, 1961	1,333.34
Account	December 6, 1961	<u>607.61</u>
		<u>\$ 6,711.89</u>

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>RICHARD D. UNANUE</u>		
Cooperative Apartment	October 14, 1960	\$ 4,770.94
Lot	December 6, 1961	1,333.33
Account	December 6, 1961	<u>607.62</u>
		\$ 6,711.89

<u>JOSEPH M. UNANUE</u>		
Cooperative Apartment	October 14, 1960	\$ 4,770.94
Lot	December 6, 1961	1,333.33
Account	December 6, 1961	<u>607.61</u>
		\$ 6,711.88

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>CLAIMANT</u>	<u>FROM</u>	<u>ON</u>
LILLIAN L. UNANUE	October 14, 1960	\$ 4,770.94
	December 6, 1961	<u>1,940.95</u>
		\$ <u>6,711.89</u>
RICHARD D. UNANUE	October 14, 1960	\$ 4,770.94
	December 6, 1961	<u>1,940.95</u>
		\$ <u>6,711.89</u>
JOSEPH M. UNANUE	October 14, 1960	\$ 4,770.94
	December 6, 1961	<u>1,940.94</u>
		\$ <u>6,711.88</u>

CERTIFICATIONS OF LOSS


The Commission certifies that LILLIAN L. UNANUE 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 Six Thousand Seven Hundred Eleven Dollars and Eighty-nine Cents (\$6,711.89) with interest at 6% per annum from the aforesaid dates to the date of settlement;


The Commission certifies that RICHARD D. UNANUE 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 Six Thousand Seven Hundred Eleven Dollars and Eighty-nine Cents (\$6,711.89) with interest at 6% per annum from the aforesaid dates to the date of settlement; and

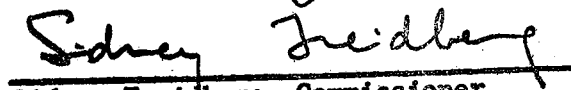
The Commission certifies that JOSEPH M. UNANUE suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Seven Hundred Eleven Dollars and Eighty-eight Cents (\$6,711.88) with interest at 6% per annum from the aforesaid dates to the date of settlement.

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

JUL 29 1970

  
Lyle 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).) CU-0443