

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

IN THE MATTER OF THE CLAIM OF

MARGOT ABREU AGRAMONTE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1220

Decision No. CU - 6134

Appeal and objections from a Proposed Decision entered March 29, 1971.
Oral hearing not requested.

Hearing on the record held on June 8, 1972

FINAL DECISION


Under date of March 29, 1971, the Commission issued its Proposed Decision in this matter certifying a loss to claimant in the total amount of \$39,577.52 which included \$22,500 for improved realty.

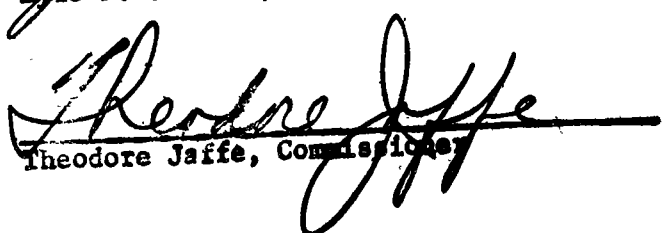
Claimant objected, contending that the real property was worth \$34,000 and that an offer to this effect had been made in 1949. The record does not disclose that this was a firm offer, and moreover, an offer of \$22,500 was made to claimant in 1959, which in the absence of other evidence, the Commission found to represent the fair value of the property, a one-story building with loft on two lots.

The Commission has considered the claimant's objections and the entire record and finds no basis to alter its decision in this matter. Accordingly, the Proposed Decision is affirmed and entered as the Commission's Final Decision in this matter.

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

JUN 16 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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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 MARGOT ABREU AGRAMONTE in an incomplete amount of \$59,361.52, based upon the asserted ownership and loss of real and personal property in Cuba. 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.

Claimant describes her losses as follows:

	<u>Asserted Value</u>
1. Nine lots of unimproved land	Unknown
2. A brick house and 2 appurtenant lots	\$ 30,000.00
3. 18 Republic of Cuba bonds with interest to 1967	22,140.00
4. 1 Bank account	717.52
5. Loss of rent from house to 1967	<u>6,504.00</u>
	\$ 59,361.52

House

On the basis of the record including a report from abroad, the Commission finds that claimant owned certain improved real property at Juan O'Burque 131-133, Cienfuegos, Las Villas, Cuba.

The Commission further finds that the property was within the purview of the Urban Reform Law of October 14, 1960 and, in the absence of evidence to the contrary, the property 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 house was built on one lot and is described as a one-story, brick building of concrete with a tile roof. Originally it had been a large, private house but later had been adapted as a loft building for commercial purposes. The land consists of two lots.

A report from abroad reflects that when claimant inherited the house in 1940 the property was valued at \$12,000.00 but this did not include the value of the second lot. In April of 1945, as evidenced by a lease that was submitted, the property was rented at \$110.00 per month. Claimant has submitted evidence of a firm offer of purchase made to claimant on July 7, 1959 in the amount of \$22,500.00. Claimant states that there had been an offer in 1949 of \$34,000.00. The record reflects that this offer was made subject to inspection of the premises and was never consummated.

The Commission finds that the value of the improved real property on the date of loss was \$22,500.00 and that claimant sustained a loss in this amount.

Bonds

Claimant asserts a loss based on Republic of Cuba 4-1/2% Bonds. Claimant has submitted a letter from the First National City Bank of New York, dated May 22, 1967, in which the bank recites that since November 15, 1956 it has been holding such bonds in principal amount of \$16,000.00 in its securities vault for claimant.

In our decision entitled the Claim of Clemens R. Maise (Claim No. CU-3191 which we incorporate herein by reference), we held that the non-payment of the obligation constituted a taking of the property of the bondholders on December 31, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per \$1,000 bond of \$1,022.50 including interest to December 31, 1960.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Maise decision; that she was an American national at the requisite times; that she has been the owner of eighteen bonds in the total principal amount of \$16,000.00, 4-1/2% External Debt Bonds of the Republic of Cuba since prior to December 31, 1960; and that claimant suffered a loss in the amount of \$16,360.00, including interest, within the meaning of Title V of the Act.

Bank Account

A part of this claim is based on the loss of a bank account. The record establishes that claimant had a balance of 717.52 Cuban pesos on deposit with the First National Bank of Boston, Havana Branch, as of September 9, 1959.

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.

In the absence of evidence to the contrary, the Commission finds that claimant's above-described bank account, totalling 717.52 pesos (which were on a par with United States dollars), 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]); and that claimant suffered a loss in the amount of \$717.52.

Nine Lots of Unimproved Land

Claimant states that she was the owner of unimproved real property situated at Cayo Carenas, Cienfuegos Bay, Las Villas, Cuba.

The Commission was unable to ascertain this fact and claimant has failed to substantiate this portion of the claim with any probative evidence.

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) (1970).)

The Commission finds that claimant has failed to sustain the burden of proof with respect to this item of the claim and the same is hereby denied.

One Ernest L. Daly, a nephew of claimant, had indicated to the Commission that he wished to be joined in the subject claim as to this particular item of property. He asserted that he had a fractional, inherited interest in the property through the death of his mother. No probative evidence was submitted in support thereof although on several occasions the Commission had requested such. Accordingly, his petition to join in is denied.

Loss of Rental Income and
Interest on Bonds to Date of Filing the Claim

Claimant states that she lost rentals since October 1, 1959 and now asserts a loss for this item in the amount of \$6,504.00. In addition, claimant seeks the accumulated interest on her bonds in the amount of \$4,320.00.

The Commission has held that rental income due after the date of nationalization or taking of a property is not certifiable within the scope

of Title V of the Act (see Claim of The University of Chicago, Claim No. CU-2590). Inasmuch as the property after the date of taking no longer belonged to the claimant but to the Government of Cuba, claimant is not entitled to certification of rental losses in addition to those for the value of the property at the time of taking. This is likewise true for a claim for interest on bonds after the bonds had been taken by the Government of Cuba. However, claimant is entitled to accrued interest on the principal amount of losses (see below).

RECAPITULATION

Claimant's losses are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount of Loss</u>
Improved Realty	October 14, 1960	\$22,500.00
Bonds	December 31, 1960	16,360.00
Bank Account	December 6, 1961	<u>717.52</u>
		\$39,577.52

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 as follows:


<u>FROM</u>	<u>ON</u>
October 14, 1960	\$22,500.00
December 31, 1960	16,360.00
December 6, 1961	<u>717.52</u>
	\$39,577.52

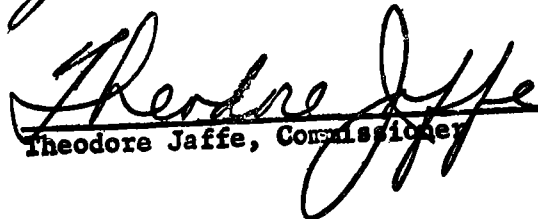
CERTIFICATION OF LOSS

The Commission certifies that MARGOT ABREU AGRAMONTE 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 Thirty-nine Thousand Five Hundred Seventy-seven Dollars and Fifty-two Cents (\$39,577.52) with interest 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

MAR 29 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

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, (1970).)