

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

IN THE MATTER OF THE CLAIM OF

CARMEN NAVAS FRANQUIZ
and
MONSERRATE NAVAS FRANQUIZ

Claim No. CU - 3013

Decision No. CU 5998

Under the International Claims Settlement
Act of 1949, as amended

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 CARMEN NAVAS FRANQUIZ and MONSERRATE NAVAS FRANQUIZ for \$165,500 based upon the asserted ownership and loss of certain real properties in Cuba. Claimants have been nationals 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.

Claimants, sisters, describe their aggregate losses as follows:

1)	563 Goicuria, Havana	\$ 17,500	
2)	561 Goicuria	17,500	
3)	565 Goicuria	60,000	
4)	Freyre de Andrade, No. 114	9,000	
5)	Freyre de Andrade, No. 112	9,000	
6)	4th between C and D, Playa Hermosa	22,500	
7)	C and 4th, Playa Hermosa	20,000	
8)	Lot (related to item (5))	<u>10,000</u>	\$165,500

Based upon the entire record, including an adjudication of the estate of claimants' father, a widower, as well as a listing of deeds, and reports from abroad, the Commission finds that claimants owned fractional interests in certain realties in Cuba, further discussed below.

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).

On the basis of the foregoing, the Commission finds that claimants' real property interests in Cuba were 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.)

The Commission finds that claimants owned the following real property interests:

- (1) 1/2 each of the improved realty at 563 Goicuria
- (3) 1/4 each of the improved realty at 565 Goicuria
- (4) 1/4 each of Freyre de Andrade 114, improved
- (5) 1/4 each of Freyre de Andrade 112, improved
- (6) 1/4 each of property on 4th Street, between C and D, Playa Hermosa
- (7) 1/4 each of property at C and 4th, Playa Hermosa
- (8) Lot in Deed 202 (related to item (5)), 1/4 each

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 addition to asserted values, those values recited in the Document of Adjudication of the Estate of Francisco Navas y Marquez, father of claimants; descriptions of the properties; rental figures, said to be depressed by Cuban legislation "freezing" rentals, and values in reports obtained from abroad. On the basis of this record, the Commission finds that the properties, and claimants' interests had the following values:

<u>Item</u>	<u>Value</u>	<u>Carmen Navas Franquiz</u>	<u>Montserrat Navas Franquiz</u>
(1) 563 Goicuria	\$ 8,000	\$ 4,000	\$ 4,000
(3) 565 Goicuria	30,000	7,500	7,500
(4) 114 Freyre de Andrade	2,600	650	650
(5) 112 Freyre de Andrade	3,600	900	900
(6) 4th between C and D	5,000	1,250	1,250
(7) C and 4th	7,400	1,850	1,850
(8) Lot (related to (5))	220	55	55
		<u>\$16,205</u>	<u>\$16,205</u>

Accordingly, the Commission concludes that each claimant herein suffered a loss in the amount of \$16,205 within the meaning of Title V of the Act, as the result of the taking of these properties by the Government of Cuba on October 14, 1960.

With respect to the property at 561 Goicuria (Item 2), the Commission finds that this house and lot were recorded in the name of Placido Jaime Navas Marquez, uncle of claimants, and that claimants herein had no interest therein. Accordingly, this part of their claim is denied.

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.

CERTIFICATIONS OF LOSS

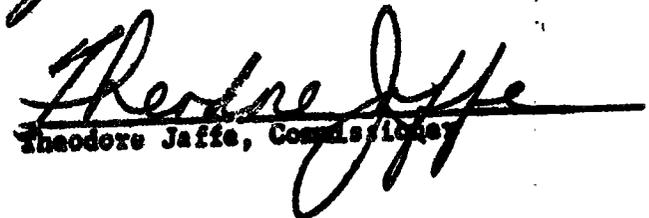
The Commission certifies that CARMEN NAVAS FRANQUIZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Sixteen Thousand Two Hundred Five Dollars (\$16,205.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement; and

The Commission certifies that MONSERRATE NAVAS FRANQUIZ 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 Sixteen Thousand Two Hundred Five Dollars (\$16,205.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

DEC 16 1970


Lyla 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. 531.5(e) and (g), as amended, (1970).)