

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

IN THE MATTER OF THE CLAIM OF

DOLORES C. NUFER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3076

Decision No. CU- **5845**

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 DOLORES C. NUFER for \$59,487.30 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 1919.

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:

Rental property in Marianao, Havana	\$28,937.30
Improvements to this property	10,000.00
Rental furnishings in this property	10,000.00
Farm	550.00
FHA 1st mortgage bonds	<u>10,000.00</u>
	\$59,487.30

Based upon the entire record, including the original copies of the deeds to the two items of real property, affidavits from the claimant and individuals who knew and visited claimant for many years, and a copy of the will of claimant's husband who died in November, 1956, the Commission finds that claimant owned the real properties and the furnishings subject of this claim.

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 claimant's real properties in Marianao 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 further finds that the furnishings in the rental property were also taken on that 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 values, a description of the rental property as a two-story building on a lot of about 940 square meters, of masonry and concrete construction with terrazzo floors and tiles and having about 13 rooms and usual facilities. The deed reflects that it was purchased on September 4, 1956 for \$28,937.30. The record also includes a blueprint of the property and an affidavit from the individual who was engaged to improve the property who states that the total cost of the improvements was \$9,200.00. The deed to the other property discloses that it was purchased on September 21, 1956 for \$550.00 and comprised about 41 square meters. The record also includes a detailed list prepared by claimant of the furnishings for the rental property, purchased by claimant and her late husband, and giving the cost price of the separate items. The value of these furnishings is supported by affidavits from individuals with personal knowledge of the furnishings involved.

On the basis of the evidence of record the Commission finds that on October 14, 1960, the date of loss, the rental property including the improvements had a value of \$38,137.30, that the farm plot had a value of \$550.00, and that the furnishings in the rental property, after depreciation, had a total value of \$9,897.60.

The Commission therefore concludes that claimant suffered a loss in the aggregate amount of \$48,584.90 within the meaning of Title V of the Act as a result of the taking of his property by the Government of Cuba on October 14, 1960.

Concerning the portion of the claim based on the loss of certain FHA 1st mortgage bonds, claimant states that these bonds were left behind in Cuba and she is unable to support this portion of her claim. Accordingly, this portion of the claim is denied for failure of proof.

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.

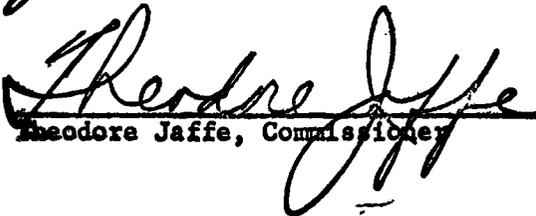
CERTIFICATION OF LOSS

The Commission certifies that DOLORES C. NUFER 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 Forty-Eight Thousand Five Hundred Eighty-Four Dollars and Ninety Cents (\$48,584.90) with interest 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

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 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).)