

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

IN THE MATTER OF THE CLAIM OF

HERBERT JACOB

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-0004

Decision No. G-0097

Consideration of Objections to a Proposed Decision issued February 22, 1978. No Oral Hearing requested.

Hearing on the Record held September 6, 1978.

FINAL DECISION

This claim in the asserted amount of \$30,000.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of property located in Gross Wartenberg, Poland.

In its Proposed Decision the Commission denied the claim on the basis that the loss did not occur ". . . in the German Democratic Republic or in East Berlin. . ." as specifically required by section 602 of the Act.

Claimant filed objections to the Proposed Decision and has submitted to the Commission a copy of a picture of the house and a copy of a tax bill issued in 1923 in reference to the property for which claim is made.

The copy of the tax bill confirms the location of the property in Gross Wartenberg, which is presently within the territory of the State of Poland.

Section 602 of the Act defines those claims which may be considered by the Commission in this program. In relevant parts, section 602 states as follows:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, 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 whether such losses occurred in the German Democratic Republic or in East Berlin. . ." (emphasis added)

Gross Wartenberg, where claimant's loss occurred, is not now nor has it ever been included within what now constitutes the territory of the German Democratic Republic or East Berlin and, therefore, is not a loss which may be considered by the Commission under Public Law 94-542.


Therefore, the evidence of record does not warrant any change in the Proposed Decision.

Accordingly, it is ORDERED that the Proposed Decision be and it hereby is affirmed as the Final Decision of the Commission.

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

6 SEP 1978

  
Wilfred J. Smith, Commissioner

  
Robert E. Lee, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on 6 SEP 1978

  
Francis T. Montemayor  
Executive Director

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PROPOSED DECISION

This claim in the asserted amount of \$30,000.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, is based upon the loss of property, located in Poland.

Under section 602, Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), the Commission is given jurisdiction as follows:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, 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 whether such losses occurred in the German Democratic Republic or in East Berlin. . ."

To be compensable under the Act, certain conditions must be met. The statute requires that the loss must have occurred in the German Democratic Republic or in East Berlin. Additionally, the loss must be the responsibility of the German Democratic Republic. The property for which claim is made herein is located in Poland.


The Commission is aware of the fact that certain territory, which now constitutes Poland, was, prior to 1945, part of Germany. However, subsequent to 1945 no control over this area was exercised by any German government, and at no time was control over this area ever exercised by the German Democratic Republic.


Therefore the property not being located in the German Democratic Republic or in East Berlin and the loss thereof not being the responsibility of that government, the claim under the present act must be and it hereby is denied.

The Commission finds it unnecessary to make determinations concerning any other elements of this claim.

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

22 FEB 1978

  
Wilfred J. Smith, Commissioner

  
Robert L. Lee, Commissioner

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.)