

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

IN THE MATTER OF THE CLAIM OF

JOHN ALBERT ROSSLER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-0139

Decision No. G-0438

Counsel for Claimant:

Bruce G. Soden, Esquire  
Hancock, Estabrook, Ryan,  
Shove & Hust

Appeal and objection from a Proposed Decision entered on January 31,  
1979. No Oral Hearing Requested.

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Hearing on the Record held on September 19, 1979.

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FINAL DECISION

This claim in the asserted amount of \$200,000.00 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 an apartment building located at No. 1 Robert Schumann Strasse, in Leipzig.

Claimant, JOHN ALBERT ROSSLER, became a United States citizen on December 4, 1935.

By Proposed Decision dated January 31, 1979, the Commission granted claimant an award under section 602 of the Act in the amount of \$9,000.00 plus interest for the taking by the German Democratic Republic on June 7, 1951 of unimproved real property at No. 1 Robert Schumann Strasse in Leipzig.

By letter dated February 12, 1979, claimant, through counsel, objected to the Proposed Decision. However, no additional evidence was submitted in support of claimant's objections. Claimant argues that the award granted did not provide for compensation for claimant's loss of the use of the premises or for the value of the structure built thereon after the land was taken by the German Democratic Republic.

The Commission has reviewed the claimant's objection and concludes that under international law, which the Commission is directed by statute to apply in these claims, the determination of the value of property nationalized or otherwise taken by the German Democratic Republic must be as of the date of the taking, that is, in the instant case, June 7, 1951. Based upon all the evidence of record, the Commission found in the Proposed Decision issued on this claim that the fair and reasonable approximate market value of the lot in question on June 7, 1951 was \$9,000.00 and found that any subsequent improvements to the land were not at the expense of the claimant and were consequently not a loss to him for which the German Democratic Republic was responsible under the Act. Furthermore, any loss of use or other benefits to be derived from the property by the claimant after June 7, 1951 has been incorporated into the value of the property found by the Commission on the date of loss. There is no evidence in the record to establish any additional value of the land over and above the amount of the award previously granted which would not be remote or speculative as of the date of taking.

Full consideration having been given to the entire record, including the claimant's objections, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision.

A W A R D

Claimant, JOHN ALBERT ROSSLER, is therefore entitled to an award in the amount of Nine Thousand Dollars (\$9,000.00), plus interest at the rate of 6% simple interest per annum from June 7, 1951 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

Accordingly, it is

ORDERED that the Proposed Decision be and it is hereby affirmed.

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

SEP 19 1979

Richard W. Yarborough  
Richard W. Yarborough, Chairman

Wilfred J. Smith  
Wilfred J. Smith, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision on SEP 19 1979

Francis V. Marten  
Executive Director

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Bruce G. Soden, Esquire

PROPOSED DECISION

This claim in the asserted amount of \$200,000.00 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 an apartment building located at No. 1 Robert Schumann Strasse, in Leipzig.

Claimant, JOHN ALBERT ROSSLER, became a United States citizen on December 4, 1935.

Under section 602, Title VI of the International Claims Settlement Act of 1939, 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 . . ."

Based upon all the evidence of record including an investigation by the Commission's staff in West Germany, the Commission finds that claimant, JOHN ALBERT ROSSLER, inherited upon the death of his aunt, Maria Horn, on August 13, 1943, a lot at No. 1 Robert Schumann Strasse, in Leipzig improved by a four story, eight unit apartment building. The Commission further finds based upon the evidence of record that the building was destroyed by fire on February 20, 1944, as the result of bombing and that on or about June 7, 1951, the date of the decree implementing section 14 of the Reconstruction Law of September 6, 1950, the lot at No. 1 Robert Schumann Strasse was taken by an instrumentality of the German Democratic Republic.

Claimant stated at the time of filing that the subject property had a value of \$200,000.00 on the date of loss. Claimant has submitted evidence in support of this value including photographs of the lot with the apartment building before its destruction by fire, and, more recently, after the construction of a new building upon the lot.

It should be noted that the Commission has no authority under Title VI of the International Claims Settlement Act of 1949, as amended to grant an award for losses resulting from war damage. Moreover, any improvements to the property made by the government of the German Democratic Republic could not be held to have inured to the claimant's benefit. Accordingly, that portion of this claim based upon improvements to real property must be and it is hereby denied.

Based upon all the evidence of record including evidence of the rental income for similar property in this area of Leipzig, the Commission finds that the value of the subject lot was \$9,000.00 on June 7, 1951, the date of taking, and concludes that claimant, JOHN ALBERT ROSSLER, is entitled to compensation in such amount under section 602 of the Act, supra.

The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act for the nationalization or other taking of property or interest therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of George L. Rosenblatt, Claim No. G-0030; Decision No. G-0100 (1978)).

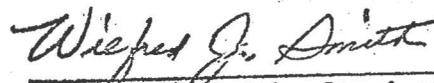
A W A R D

Claimant, JOHN ABLERT ROSSLER, is therefore entitled to an award in the amount of Nine Thousand Dollars (\$9,000.00) plus interest at the rate of 6% per annum from June 7, 1951, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

JAN 31 1979

  
Richard W. Yarborough, Chairman

  
Wilfred J. Smith, 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.)