

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

IN THE MATTER OF THE CLAIM OF

MARGARETE K. JUNGnickel

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-0814

Decision No. G-1481

Hearing on the Record held on APR 01 1981

FINAL DECISION

This claim in the amount of 18,112.50 ostmarks 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 various mortgages registered against real property in Grossenhain.

In its Proposed Decision, issued on October 31, 1979, the Commission granted the claimant an award in the principal amount of \$2,226.19 for two mortgages registered against real property at Friedrich-Engels-Strasse 3 that were taken by the German Democratic Republic on September 10, 1952. Another part of the claim based upon two additional mortgages totalling 8,762 ostmarks and registered against real property at Frauenmarkt 1 was denied for the reason that the record failed to establish that such mortgages had been the subject of a taking by the German Democratic Republic as required for compensation under the Act.

Claimant has objected to the part of the Commission's Proposed Decision dealing with the subject property at Frauenmarkt 1, asserting that her interests therein have been taken by the German Democratic Republic. Claimant bases this assertion on the grounds that (1) the real property itself has been taken by the German Democratic Republic, and (2) she, unlike her relatives in the German Democratic Republic who also have interests in the property, receives no interest payments to her account at the Staatsbank der DDR in Meissen.

The record includes a letter from relatives in Germany, dated August 24, 1975, confirming that a 5,200 ostmark mortgage in the claimant's name was registered against the family property at Frauenmarkt 1 in satisfaction of her share of her mother's estate. Claimant states that this mortgage was recorded in 1948. The aforementioned letter also indicates that claimant's brother, Hans Klahre, originally owned a 1/2 interest in the subject real property and that claimant is one of four co-heirs recorded in the land register as his successors in interest. Claimant has indicated that her brother died during World War II and asserts that a mortgage of 3,562.50 ostmarks was registered in her name on August 9, 1963 in satisfaction of her interest in the property inherited from Hans Klahre.

Claimant has submitted a letter from the Public Housing Administration in Grossenhain indicating that the real property at Frauenmarkt 1 was placed under its administration on February 20, 1963, pursuant to the "Decree on the Safeguarding of Property Assets" of July 17, 1952. Upon review of the subject decree, which denies affected owners any rights of disposition over their property, the Commission finds that the real property at Frauenmarkt 1 in Grossenhain was taken by the German Democratic Republic, within the meaning of section 602 of the Act, on February 20, 1963.

With regard to the 5,200 ostmark mortgage claimant had held against the property since 1948, the record contains no correspondence from authorities in the German Democratic Republic indicating that this mortgage was taken along with the real property in 1963. Moreover, Section 6 of the "Third Directive for the Implementation of the Decree of July 17 on the Safeguarding of Property Interests," dated October 28, 1952, specifically excluded from the decree third party rights of foreigners against the affected properties that were recorded in the land registry. Since the claimant has been a United States citizen since 1931, her mortgage against the real property at Frauenmarkt 1 in Grossenhain did not come within the purview of the decree of July 17, 1952.

Although claimant asserts that she has received no interest payments on her mortgage since the taking of the real property by the German Democratic Republic, there is no evidence in the record to indicate how much, if any, annual interest was due on the mortgage or the circumstances that might have led to the suspension of such mortgage payments. Accordingly, there is no basis for the Commission to conclude, merely on the basis of claimant's assertion that she has received no interest payments, that her 5,200 ostmark mortgage against the property at Frauenmarkt 1 in Grossenhain has been taken by the German Democratic Republic. Therefore, the Commission affirms its denial of this part of the claim.

At the time the real property at Frauenmarkt 1 was taken on February 20, 1963, the additional interest in the subject property claimant had inherited from her brother, Hans Klahre, was in the form of a 1/8 ownership interest. Based upon all the evidence of record, including the claimant's description of the property and its Einheitswert (tax assessment value), the Commission determines that the building and land involved herein had a value of \$20,000.00 at the time of taking by the German Democratic Republic in 1963. Therefore, claimant's 1/8 interest therein was worth \$2,500.00.

Although claimant asserts that a 3,562.50 ostmark mortgage was registered in her favor against the subject property on August 9, 1963, the aforementioned letter of August 24, 1975 from relatives in Germany appears to contradict this assertion by referring to claimant's interest in the property as part of a "community of heirship" in succession to Hans Klahre. In view of this conflicting evidence the Commission considers the record insufficient to establish that claimant holds a mortgage against the subject property which might represent partial compensation for the taking of her 1/8 interest therein.

Therefore, the Commission now finds that claimant is entitled to an award of \$2,500.00 for her 1/8 interest in the property at Frauenmarkt 1, in addition to the \$2,226.19 granted in the Proposed

Decision. Accordingly, the Commission withdraws the \$2,226.19 award of the Proposed Decision and hereby grants claimant an award in the total amount of \$4,726.19 as its final determination of this claim.


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 interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).


A W A R D

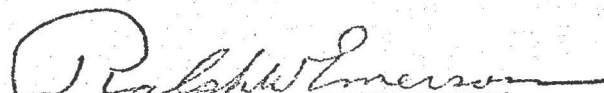
Claimant, MARGARETE K. JUNGnickel, is therefore entitled to an award in the amount of Four Thousand Seven Hundred Twenty-Six Dollars and Nineteen Cents (\$4,726.19) plus interest at the rate of 6% simple interest per annum, on \$2,226.19 from September 10, 1952 and on \$2,500.00 from February 10, 1963, 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 Final
Decision of the Commission.


APR 1 1981


Richard W. Yarbrough, Chairman


Francis L. Jung, Commissioner


Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision
the Commission which was entered as the final
decision on APR 1 1981


Executive Director

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IN THE MATTER OF THE CLAIM OF

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PROPOSED DECISION

This claim in the amount of 18,112.50 ostmarks 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 various mortgages registered against real property in Grossenhain.

The record indicates that claimant became a United States citizen on May 14, 1931. The record also indicates that claimant is the testamentary successor in interest to her husband, Alfred P. Jungnickel, who became a United States citizen on November 26, 1921, and died on April 26, 1972.

Under section 602, Title VI of the Act, 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. . ."

Post-war correspondence from various East German authorities indicates that claimant's predecessor in interest, Alfred P. Jungnickel, had two mortgages of 7,500 ostmarks and 1,850 ostmarks-- a total of 9,350 ostmarks--which amounts were registered against his father's home in Grossenhain since before World War II. A letter from the Deutsche Investitionsbank, dated September 10, 1952, informed Alfred Jungnickel's father that, pursuant to the "Law on the Administration and Protection of Foreign Property in the German Democratic Republic," dated September 6, 1951, it had been charged with the administration of all foreign obligations, including the mortgage of Alfred P. Jungnickel. The Commission has held that implementation of the provisions of that decree constitutes a taking as defined by section 602 of the Act and that, in determining an award, 4.2 ostmarks equalled one dollar in 1952. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100, and Claim of OLGA LOEFFLER, Claim No. G-0056, Decision No. G-0221). The Commission finds, therefore, that the mortgages totalling 9,350 ostmarks were taken on September 10, 1952, and that claimant is entitled to an award of \$2,226.19 for their loss.

The record includes correspondence from East German banks indicating that, since the death of Alfred P. Jungnickel's father in February 1954, 4% annual interest has been paid on the 7,500 marks mortgage by his heirs living in the German Democratic Republic. Since the mortgage was taken before 1954, however, neither Alfred Jungnickel nor the claimant would have an ownership interest in these payments. The Commission has concluded, however, that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement.

Claimant also asserts the loss of two mortgages totalling 8,762.00 ostmarks registered in her name against the family home at Frauenmarkt 1, in Grossenhain. The record indicates that the first of these mortgages, in the amount of 5,200 ostmarks, was created on October 20, 1948, and represented the share of her mother's estate inherited by the claimant. The evidence also indicates that claimant inherited an additional 3,562.50 ostmarks interest in the Frauenmarkt property from her brother, Hans Klanre, on August 9, 1963. The claimant asserts that this interest was also turned into a mortgage, but the evidence is unclear as to whether such was the case. Regardless of whether this second interest in the property was a mortgage or a partial ownership, no evidence has been submitted indicating that either of the interests acquired by the claimant in the Frauenmarkt property in 1948 and 1963 have been taken by the German Democratic Republic.

Rather, statements from the Staatsbank der DDR in Meissen indicate that a bank account was established to serve as a receptacle for interest payments and/or rental income deriving from the claimant's interest in the Frauenmarkt property. Claimant states that during a visit to the German Democratic Republic in 1978 she was informed that she could withdraw 15 marks a day from the account. Claimant also states that she was permitted to withdraw 100 marks and 105 marks from the account on previous trips to the German Democratic Republic.

Currency regulations in the German Democratic Republic, as in many other countries, place limitations upon the free use of bank accounts, allowing withdrawal within the German Democratic Republic in certain amounts for certain specified purposes, but prohibiting the conversion of the funds to foreign currency. An account subject to such regulations is termed a "blocked account."

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The Commission has held that it is a well established principle of international law that such blocking of a bank account is an exercise of sovereign authority which does not give rise to compensable claim (Claim of MARTIN BENDRICK, Claim No. G-3285, Decision No. G-0220).

While the fact of the blocking of an account may cause non-residents of the German Democratic Republic some hardship, the Commission concludes that such action does not constitute a nationalization, expropriation or other taking as required for compensation under section 602 of the Act.

The Commission finds, therefore, that neither the mortgage established for the claimant in 1948 nor the additional interest in the Frauenmarkt property inherited by the claimant in 1963 have been taken by the German Democratic Republic. This part of the claim must therefore be denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this part of the claim.

A W A R D

Claimant, MARGARETE K. JUNGnickEL, is therefore entitled to an award in the amount of Two Thousand Two Hundred Twenty-Six Dollars and Nineteen Cents (\$2,226.19), plus interest at the rate of 6% simple interest per annum from September 10, 1952, 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.

OCT 31 1979

For Presentation to the Commission

A handwritten signature in dark ink, appearing to read "D. H. Rogers", is written over a horizontal line.

by David H. Rogers, Director
German Democratic Republic Claims
Division

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, a Final Decision based upon the Proposed Decision will be issued upon approval by the Commission anytime after the expiration of the 30 day period following such service or receipt of notice. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)

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