

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

IN THE MATTER OF THE CLAIM OF

OTTIE BOWERS
ALICE MATYAS

Claim No. G-0819
G-1477

Decision No. G-2365

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objection from a Proposed Decision entered on June 25, 1980.

An Oral Hearing was Requested and held on November 13, 1980.

FINAL DECISION

These claims in the amounts of \$65,500.00 and \$78,900.00, respectively, 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), are based upon the loss of improved real property located at Karlstrasse 7-9 in Petershagen, personal property, lost rental income from 1969 to 1978, and a bank account.

In its Proposed Decision, the Commission denied these claims in their entirety on the ground that none of the subject property interests had been the subject of "nationalization, expropriation or other taking" by the German Democratic Republic, as required for compensation under section 602 of the Act.

The claimants objected to the part of the Commission's Proposed Decision denying their claim for the subject real property in Petershagen. The claimants assert that they have not been allowed to see a deed to the house, the bank book of the property related bank account, or any other documentation relating to the administration of the house since their ownership rights in the property were inherited from their father in 1969. It was

asserted at the Oral Hearing that the claimants received virtually no correspondence from their administrator, Simon Ernst, between 1969 and 1977, when the claimants relieved him of his duties. The claimants contend that they sanctioned the transfer of administration to the Community Council of Petershagen to save the expense of their own administrator since various laws and regulations of the German Democratic Republic had interfered with their rights of ownership and made the rental of the subject premises an unprofitable business.

At the Oral Hearing and in subsequent correspondence to the Commission, however, the claimants have submitted copies of letters they received from Simon Ernst indicating that they were in frequent contact with their administrator in the German Democratic Republic from the time of their father's death in February 1969 through December 1973. In these letters Simon Ernst kept the claimants well informed as to the status of the property at Karlstrasse 7-9 in Petershagen. Mr. Ernst suggested that the house and land be sold, in which case Mr. Ernst advised that the sale price would be deposited into a blocked account from which the claimants, during visits to the German Democratic Republic, could withdraw 15 marks a day. Mr. Ernst also suggested that the subject property be re-registered in his own name so as to avoid some of the ownership restrictions applying to foreigners. The claimants, however, have continually refused to surrender their ownership interests in the property.

The assumption of administrative duties by the Community Council of Petershagen in 1978 commenced only after a contract had been signed by the Community Council and Simon Ernst. The claimants state that Simon Ernst entered into this contract in their behalf and at their specific direction, since they had decided to relieve him of his administrative duties. Moreover, the claimants indicate that this decision was based on economic

considerations, since the property was not earning them any money. The record includes a report from the Office for the Legal Protection of Property of the German Democratic Republic stating that the Petershagen property is presently being administered "under civil law." There is no evidence to indicate that the claimants' rights in the property have been further restricted since the passage of administration from Simon Ernst to the Community Council.

On the basis of the foregoing evidence, the Commission remains unconvinced that the house and land at Karlstrasse 7-9 in Petershagen have been the subject of a "nationalization, expropriation or other taking" by the German Democratic Republic. The record indicates that the claimants have the right to sell the subject property and use the proceeds deriving therefrom for certain purposes within the German Democratic Republic. There is no evidence to indicate that they could not also freely give or devise the property to anyone of their choosing. While there is evidence in the record to indicate that rent controls have prevented the claimants from earning much, if any, income, the Commission does not find that such rent controls or any other administrative regulations applying to the subject property in Petershagen have been tantamount to a taking of this property by the German Democratic Republic.

At the Oral Hearing Josef Matyas, the husband of claimant ALICE MATYAS, stated that he was involved in illegal political activities in the German Democratic Republic between 1946 and 1951, when he fled to the West to avoid arrest by East German authorities. It is asserted that the Matyas family is now barred from returning to the German Democratic Republic and, as a result, has no access to the subject real property in Petershagen. Although Josef Matyas presented evidence that he was recognized as a political refugee by West German authorities in 1951, the record does not establish that this status or any prior political activities in the German Democratic Republic have in any way affected the ownership rights of ALICE MATYAS or OTTIE BOWERS in the Karlstrasse property.

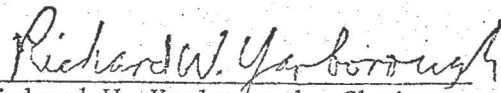
Full consideration having been given to the entire record, including the claimants' objections, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision.

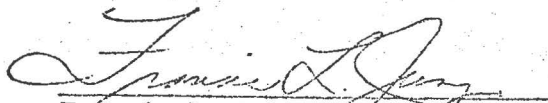
Accordingly, it is

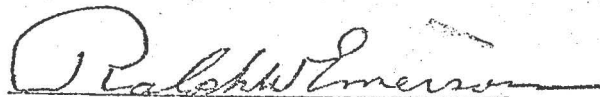
ORDERED that the Proposed Decision be and it hereby is affirmed.

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

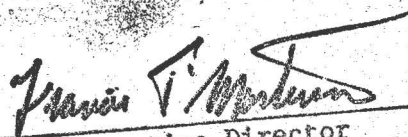
MAR 4 1981


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner


Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAR 4 1981


Executive Director

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OF THE UNITED STATES
WASHINGTON, D.C. 20579

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OTTIE BOWERS
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Under the International Claims Settlement
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Claim No. G-0819
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PROPOSED DECISION

These claims in the amounts of \$65,500.00 and \$78,900.00, respectively, 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), are based upon the loss of improved real property located at Karlstrasse 7-9 in Petershagen, personal property, lost rental income from 1969 to 1978, and a bank account.

The record indicates that claimant, OTTIE BOWERS, became a United States citizen on April 28, 1933, and that claimant, ALICE MATYAS, became a United States citizen on November 6, 1959.

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. . ."

The record establishes that the claimants' father, Emil Grunewald, acquired the subject real property at Karlstrasse 7-9 in Petershagen in 1931. The record also establishes that Emil Grunewald, a citizen of the German Democratic Republic, died in 1969 and left a will designating the claimants herein as his successors in interest. Claimant OTTIE BOWERS states that the

subject property was under the private administration of Simon Ernst, a family friend, until 1977, at which time he gave up his administrative duties. OTTIE BOWERS indicates that neither she nor ALICE MATYAS undertook to appoint a new private administrator, which forced the town administration to assume administration of the property. The Commission has received a report from the "Office for the Legal Protection of Property of the German Democratic Republic" indicating that the administration of the subject property by the Community Council of Petershagen commenced on July 26, 1978.

Thus, the administration of the improved real property involved herein was undertaken by the Community Council of Petershagen only because the claimants failed to appoint a private administrator to succeed Simon Ernst. The Commission finds, therefore, that the real property at Karlstrasse 7-9 in Petershagen has not been the subject of a "nationalization, expropriation or other taking" by the German Democratic Republic, as required for compensation under section 602 of the Act. This part of the claims must therefore be denied.

Claim is also made for unspecified personal property, the loss of rental income from February 1969 until 1978, when the instant claims were filed, and a bank account of the claimants' parents. No evidence has been submitted, however, to establish the claimants' ownership interests in any such property, the value thereof, or the date and manner of their taking by the German Democratic Republic, as required for compensation under section 602 of the Act. The parts of these claims based upon the loss of these property interests, therefore, must also be denied.

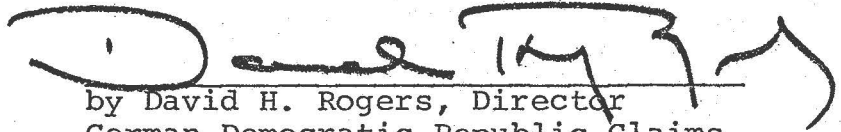
For the above cited reasons, these claims must be and hereby are denied in their entirety.

The Commission finds it unnecessary to make determinations with respect to other elements of these claims.

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

For Presentation to the Commission

JUN 25 1980


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 any time 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.)

At any time after Final Decision has been issued on a claim, or a Proposed Decision has become the Final Decision on a claim, but not later than 60 days before the completion date of the Commission's affairs in connection with this program, a petition to reopen on the ground of newly discovered evidence may be filed. (FCSC Reg., 45 C.F.R. 531.5 (1), as amended).