

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

IN THE MATTER OF THE CLAIM OF

B'NAI B'RITH

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-1178

Decision No. G-2546

Counsel for Claimant:

Benjamin B. Ferencz, Esquire

PROPOSED DECISION

This claim for an unstated amount 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 properties in the German Democratic Republic owned by lodges of the fraternal order of B'NAI B'RITH.

B'NAI B'RITH was incorporated in the District of Columbia prior to World War II and the Commission finds that a large majority of its members are United States citizens. Therefore, the Commission concludes that B'NAI B'RITH has been a United States national within the meaning of section 601 (1) (b) of the Act at all times pertinent to this claim.

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 . . ."

This claim was filed for losses relating to the following specific properties:

(1) childrens home and lodge building at Poniatowskystrasse 12 and Arndtstrasse 1 in Leipzig;

(2) Fraternitas Lodge of Dresden building at Moritzstrasse 1 in Dresden;

(3) Viktoria Lodge in Goerlitz;

(4) Adolf Kraus Lodge in Cottbus;

(5) Thuringian Lodge in Eisenach;

(6) Erfurt Lodge in Erfurt;

(7) Hardenberg Lodge in Frankfurt on the Oder;

(8) Bernd-Lehmann-Lodge in Halberstadt;

(9) Germania Lodge in Halle/Saale;

(10) Mendelsohn Lodge in Magdeburg;

(11) Eugen-Fuchs-Lodge in Plauen; and

(12) Reuchlin Lodge in Schwedt/Oder

Based upon all the evidence of record, including evidence obtained by the Commission's field office in West Germany and evidence contained in the record in Claim No. W-4234 filed in the General War Claims Program under Public Law 87-846, the Commission finds that claimant's predecessors in interest owned improved real property consisting of a children's home on Poniatowskystrasse and a lodge building on Arndtstrasse in Leipzig, a lodge building on Moritzstrasse in Dresden, a lodge building on Bismarkstrasse in Goerlitz and a lodge building on Kaiserstrasse in Halberstadt.

Claimant's predecessors in interest were the local lodge organizations in the cities where the subject real properties were located. The Commission further finds that on April 10, 1937 the German Government, acting under its discriminatory anti-Jewish laws, dissolved the B'NAI B'RITH Order in Germany and on April 19, 1937 confiscated all of its property.

From the foregoing, it is evident that legal title to the subject property was originally lost during the Nazi regime as a result of racial and religious persecution. The Commission has held in the Claim of MARTHA TACHAU, Claim No. G-0177, Decision No. G-1071, that such persecutory losses will not be considered by the Commission to have cut off all rights of the original owners or their heirs, and that the persecuted owners retained a beneficial interest in the property. The Commission, in this regard, finds based upon the record, that upon the dissolution of the lodges in Germany, the beneficial interest in the properties of the lodges reverted to the claimant.

The Commission has also held in the Claim of MARK PRICEMAN, Claim No. G-2116, Decision No. G-1073, that decrees of September 6, 1951, effective in the German Democratic Republic, and December 18, 1951, effective in Berlin, which provided for taking over the administration of foreign owned property constituted a program which terminated all rights of restitution of former persecutees or their heirs. The Commission found such a termination of rights to be a taking of the property interests of such persons; and, where the property interests were owned by United States nationals at the time of loss, the termination of rights would form the basis of a compensable claim. The Commission finds, therefore, that the claimant's interests in subject properties were taken as of September 6, 1951.

With respect to the value of the subject properties on the date of loss, the Commission has reviewed the entire record, including the findings of the Commission in Claim No. W-4234 and evidence obtained by the Commission's field office in West Germany. In reaching a value for the following properties the Commission has taken into consideration, when available, the tax assessed value of the property, the increase in the value in general of real property in Eastern Europe after World War II, and the value of comparable properties. The Commission also notes that claimant received an award for the damage to the improvements to the properties in Leipzig and Dresden; that the properties in Goerlitz suffered no war damage; and that the property in Haberstadt, according to a witness, Kurt Gente, was totally bombed out on April 8, 1945. Therefore, based upon the foregoing, the Commission finds that the remaining real properties had the following values on September 6, 1951, the date of loss: children home and lodge building in Leipzig (land only), \$18,000; "Fraternitas" lodge building in Dresden (land only), \$12,500; Viktoria Lodge building in Goerlitz (no war damage), \$20,000; and Bernd-Lehmann-Lodge building in Halberstadt (land only), \$4,000. The Commission therefore concludes that claimant is entitled to compensation in the total amount of \$54,500 for its losses under section 602 of the Act.

With respect to the remaining real properties, the Commission finds that neither the claimant nor the Commission's field office in West Germany has been able to provide evidence to establish claimant's ownership interest in any of the remaining real properties claimed. Accordingly, this portion of the claim must be and it is hereby denied.

The Commission also finds that there is no evidence of record to establish that any personal property associated with the lodges survived World War II or that such property was taken by the German Democratic Republic as required for compensation under the Act.

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)).

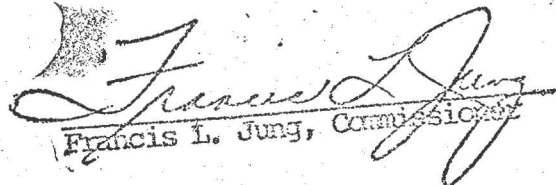
A W A R D

Claimant, B'NAI B'RITH, is therefore entitled to an award in the amount of Fifty-Four Thousand Five Hundred Dollars (\$54,500.00), plus interest at the rate of 6% simple interest per annum from September 6, 1951 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

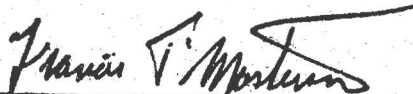
Dated at Washington, D.C.
and entered as the Proposed
Decision of the Commission.

SEP 3 1980


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on OCT 8 1980


Executive Director

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.)