

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

IN THE MATTER OF THE CLAIM OF

LAWRENCE C. CHENG
PAULINE CHENG
VERA W. CHENG

Under the International Claims Settlement
Act of 1949, as amended

CN-2-019
CN-2-022
Claim No. CN-2-023

Decision No. CN-2-070

FINAL DECISION

These claims against the People's Republic of China (hereinafter "PRC"), under the China Claims Agreement of 1979 and Section 4 of Title I of the International Claims Settlement Act of 1949, are based upon losses resulting from the nationalization, confiscation, or other taking of property in China.

A Proposed Decision was issued on October 8, 1980 denying these claims for lack of sufficient evidence to establish that the property claimed was nationalized or otherwise taken by the PRC between November 6, 1966 and May 11, 1979. The claimants filed objection thereto and requested an Oral Hearing before the Commission. An Oral Hearing was held on these claims on January 27, 1981, at which claimants LAWRENCE C. CHENG and VERA W. CHENG appeared. Claimants object to the Proposed Decision based on their assertion that all private property was taken by the PRC between 1966 and 1969. Additional evidence in support of these claims has been submitted in the form of original deeds for the subject parcel in Claim No. CN-2-022 and portions of two cables from the U.S. Consul General in Shanghai regarding the subject properties.

CLAIM OF VERA W. CHENG (CN-2-022)

In regard to Claim No. CN-2-022, the cable dated March 13, 1981 transmitted official municipal records information received by telephone from the Foreign Affairs Office of the Shanghai Municipal Government as follows:

2.--(Claim CN2-022) 46 Shao Shing Road (Shao Xing Lu). Original Owner: Zheng Wang Yu Pei....In 1967, Wang Zong-Shan....on behalf of Zheng Wang Yu Pei, handed the property "voluntarily" to the Government. The Chinese Government now concedes that this is not in line with correct government policy, and the government is prepared to return the property to the original owner. (Note: The Consulate General has no repeat no official written statement in this regard.)

In reply to a further request by the Department of State in Washington D.C. the U.S. Consul General in Shanghai advised by cable dated April 2, 1981 that a written report of information conveyed by telephone would not be forthcoming as the Foreign Affairs Office of the Shanghai Municipal Government considered the verbal report an official report.

As discussed in the Proposed Decision the previously submitted evidence regarding the taking of the subject property consisting of three letters from Chung-Zang a/k/a C.Z. Wang (Seventh Uncle) of Shanghai was unclear as to the status of the subject property, for those letters spoke of managing and paying taxes on the property up until the date of the letters. However, those letters also indicated that in 1956, when the Government placed all rental property under joint government private control, the subject property remained under the management of Chung-Zang "until June 1968," when the PRC took control over the subject property. The Commission notes that all three letters from Chung-Zang, also, indicate that claimant could reclaim title to the subject property and the letters implore her to do so.

On the basis of the three letters from Chung-Zang, the ownership deeds of the subject property, and the official municipal records information received from the Foreign Affairs Office of the Shanghai Municipal Government and conveyed to the Commission by cables from the U.S. Consul General in Shanghai, the Commission finds that claimant, VERA W. CHENG, was the owner of a parcel of real property in Shanghai known and numbered 46 Shao Shing Road and that this parcel was taken by the PRC in 1967. For the purposes of this claim in the absence of any evidence to establish a specific date, the Commission deems the taking to have occurred on January 1, 1967. However, the Commission further finds that

the claimant has not sustained a loss, for the subject property is deemed to have been returned to the claimant. As discussed in the Proposed Decision the claimant was advised by letter dated September 15, 1978 from Chung-Zang that "all property originally belonging to overseas Chinese with foreign nationalities will be returned to the original owners. All that is needed is a letter from you to explain the situation and a new letter of authorization to have me manage your property. Then I can continue to manage your property." The remainder of that letter and the latter two letters, dated May 4, 1979 and July 12, 1979, implore the claimant to assert her ownership of the subject property by authorizing Chung-Zang to manage her properties, and that a letter of authorization would not cause any bother nor adverse consequences. In reply to inquiries from the staff of the Commission concerning these statements the claimant has stated in an affidavit dated January 6, 1980:

In your letter you also asked what steps had we taken to register and assert control over our property. We have not taken any steps to that end because up until recently the People's Republic of China and the United States did not recognize each other and we had no way of taking any action. We also did not want to do anything that might lead to difficulties for Mr. Wang and his family.

The Commission notes that at the Oral Hearing the claimant indicated that she had not attempted to assert control over the subject property for she was fearful of reprisals by the PRC. The cable from the U.S. Consul General in Shanghai, dated March 13, 1981, taken together with the cable, dated April 2, 1981, indicates that the PRC is prepared to return the subject property to the claimant. Under these circumstances the Commission must conclude that the taking of the subject property has been voided by the PRC and that the PRC has acknowledged title to the subject property in the claimant. As a result the return of the ownership of the property is deemed to have occurred in the absence of any evidence to establish that claimant has been denied a request to exercise

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control thereof. Therefore, the Commission finds that the claimant has not sustained a loss and this claim must be and is hereby denied as its final determination of this claim.

CLAIM OF LAWRENCE C. CHENG (CN-2-019)

In regard to Claim No. CN-2-019, additional evidence has been submitted in the form of a portion of the above referenced cable from the U.S. Consul General, dated March 13, 1981, which indicates that the Foreign Affairs Office of the Shanghai Municipal Government reported to the U.S. Consul General on the subject property as follows:

1.--(Claim CN2-019) Plum Villa on Mormain Noth [sic] Road. Chinese name: "Mei Cun," present Shanghai address Mao Ming Lu, Lane 108, No. 1,7,9 and 15;; Lane 118, No. 1,7,9 and 15; Lane 128 No. 1,7,9, and 15. According to official land records, on January 19, 1956, Zheng Xiang-Heng....., on behalf of Zheng Su Heng....and Zheng Min Heng....entered the property into joint ownership with the Chinese Government. In 1966, (no exact date recorded), the property "became owned" by the government.

This information appears to indicate that the subject property was jointly owned by LAWRENCE C. CHENG (Zheng Su Heng) and PAULINE CHENG (Zheng Min Heng). The previously submitted evidence regarding the subject property in the form of the claim form and unsworn partial translations of ownership documents indicates that the real property known as "Plum Villa" consisted of 2.882 Mou with 12 two story houses in three rows of four each erected thereon.

On the basis of the official municipal records information obtained by the U.S. Consul General in Shanghai from the Foreign Affairs Office of the Shanghai Muncipal Government and conveyed to the Commission by cable dated March 13, 1981, and other evidence of record in this claim, the Commission finds that claimants, LAWRENCE C. CHENG and PAULINE CHENG, owned a parcel of land consisting of 2.882 Mou, with twelve two story houses erected thereon, on Mormain North Road, known as Plum Villa, in Shanghai.

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On the basis of the last sentence of the above quoted portion of this cable the Commission finds that the PRC took some official action during 1966 to effectively assert control over the subject property which control by the PRC had not existed during the joint ownership of the subject property. In the absence of a specific date for such official action confirmed by the PRC the Commission takes note of historical events in Shanghai in 1966. From a review by a member of the staff of the Commission of the historical events that occurred in Shanghai during 1966, it is noted that Shanghai was not affected by the fervor of the Red Guards and the Cultural Revolution until mid-November 1966. Prior to November 9, 1966 the Red Guards had little impact on the established government in Shanghai, but soon thereafter the Party Central Committee in Peking recognized their committee, the Shanghai Workers Revolutionary Rebel General Headquarters (WGHQ), as a revolutionary organization and forced Mayor Tsao of Shanghai to publicly welcome the WGHQ delegation to Shanghai.

By mid-November, 1966 the WGHQ was, in effect, a dual power in the city along with the Shanghai City Government and Party Committee. At the end of November 1966 the Shanghai City Government and Party Committee launched their drive of "economism" in an attempt to retain the support of the workers through bonuses, increased wages, and other material benefits including new and better housing. This wave of "economism" reached its peak by December 27, 1966 in the battle for control of Shanghai. It appears most likely that any seizures of private housing in Shanghai in 1966 would have occurred at the peak of this period of "economism" to provide the better housing for the workers, and that due to the turbulence of the time the exact date would not have been recorded. Therefore, in the absence of any evidence to establish a specific date of taking the Commission finds that the subject property was nationalized or otherwise taken on December 27, 1966 by the PRC.

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In regard to valuation of the subject property, no evidence has been submitted in support of the contention that the value is equal to \$420,000.00, calculated on the basis of \$35,000.00 per housing unit. The only evidence that might have a bearing on valuation is an uncertified copy with a partial unsworn translation purportedly of a page of a book of accounts of tenants and rentals of the twelve dwellings for September 1947. The total rental for the twelve units amounted to \$186,600.00 Chinese currency. However, following World War II the exchange rate of the Chinese currency fluctuated to such an extent that it is virtually impossible to establish an appropriate rate of exchange. Therefore, in order to establish a valuation of the subject property the Commission has reviewed the valuations of residential properties in Shanghai upon which claims were based in the first China Claims Program. The Commission finds that a fair and reasonable value of the subject property on the date of the loss is \$120,000.00. As there is no indication that the PRC is prepared to return this property to the claimants, the Commission finds that the claimants, LAWRENCE C. CHENG and PAULINE CHENG, each suffered a loss of one half of the value of the subject property in the amount of \$60,000.00.

CLAIM OF LAWRENCE C. CHENG and PAULINE CHENG (CN-2-023)

In regard to Claim No. CN-2-023, the only additional evidence submitted is in the form of a portion of the cable, dated March 13, 1981, from the U.S. Consul General in Shanghai. That cable includes the following information which was conveyed to the U.S. Consul General by telephone from the Foreign Affairs Office of the Shanghai Municipal Government:

3.--(CN2-023) Comfort Terrace, "Kang Fu Li," Hauli Hai Zhong Lu, Lane 271, Nos. 1-16 and Nos. 247-295. According to the record, these properties were owned jointly by three persons: Zheng Xiang-Heng, two-fifths; Zheng Su-Heng, two-fifths; Zheng Min-Heng, one-fifth. In May, 1956, Zheng Xiang-Heng on behalf of Zheng Su-Heng and Zheng Min-Heng entered the properties into joint ownership with the government.

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No other evidence has been submitted with regard to the date of taking of the subject property. Therefore the Commission finds that the evidence of record in Claim No. CN-2-023 is not sufficient to establish that the property claimed therein was nationalized or otherwise taken by the PRC between November 6, 1966 and May 11, 1979. Accordingly, the Commission concludes that the Proposed Decision, dated October 8, 1980, denying Claim No. CN-2-023 must be and is hereby affirmed as its final determination on this claim.

* * * * *

The Commission finds that claimants were nationals of the United States on the dates of taking, LAWRENCE C. CHENG and VERA W. CHENG having been naturalized on December 1, 1954 and PAULINE CHENG having been naturalized on February 11, 1957. The Commission concluded that, in granting awards on claims under section 4 of Title I of the International Claims Settlement Act of 1949, as amended, for the nationalization or other taking of property, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of JOHN HEDIO PROACH, Claim No. PO-3197; FCSC Dec and Ann 549 (1968)).

A W A R D S

Claimant, LAWRENCE C. CHENG, is therefore entitled to an award in the amount of Sixty Thousand Dollars (\$60,000.00) plus interest at the rate of 6% simple interest per annum from December 27, 1966 to May 11, 1979, the date of the China Claims Agreement, in the sum of Forty-Four Thousand Four Hundred Twenty-Four Dollars (\$44,424.00); and

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IN THE MATTER OF THE CLAIM OF

LAWRENCE C. CHENG
PAULINE CHENG
VERA W. CHENG

Claim No. CN-2-019
CN-2-022
CN-2-023
Decision No. CN-2-070

Under the International Claims Settlement
Act of 1949, as amended

Counsel for Claimant:

Butz, Hudders & Tallman
by Thomas C. Sadler, Jr., E

PROPOSED DECISION

These claims against the People's Republic of China are based on asserted losses of real property in Shanghai, China. These claimants are related individuals who state that they became nationals of the United States by naturalization as follows: Lawrence C. Cheng on December 1, 1954; Pauline Cheng on February 11, 1957; and Vera W. Cheng on December 1, 1954. They allege that their losses occurred in June 1968.

Under Section 4 of Title I of the International Claims Settlement Act of 1949, as amended, the Commission is given jurisdiction to receive, examine, adjudicate, and render final decisions with respect to claims of nationals of the United States included within the terms of any claims agreement concluded on and after March 10, 1954, between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II), arising out of the nationalization or other taking of property [22 U.S.C.A. Sec. 1623(a)]. In this section the Commission is directed to decide claims in accordance with provisions of the applicable claims agreement and the principles of international law.

On May 11, 1979, an agreement was concluded between the Governments of the United States of America and the People's Republic of China (hereinafter referred to as the PRC) settling claims of nationals of the United States against the PRC arising from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property of nationals of the United States on or after October 1, 1949, and prior to the date on which the agreement was concluded.

Under the provisions of Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. Sec. 1643-1643k (1964), as amended by Public Law 89-780, approved November 6, 1966, 80 Stat. 1365 (1966)], the Commission was given jurisdiction over claims of nationals of the United States against the Chinese Communist regime (the PRC) arising since October 1, 1949, for losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property of nationals of the United States. In that program, the Commission considered claims that arose between October 1, 1949 and November 6, 1966, the date on which the program was authorized. That program was completed on July 6, 1972 pursuant to a statutory mandate in the enabling legislation.

On June 1, 1979, the Commission published notice in the Federal Register announcing that a new China Claims Program would be initiated under which it would consider claims by nationals of the United States against the PRC for losses that arose between November 6, 1966, and May 11, 1979. August 31, 1979, was established as the deadline for filing such claims.

The period during which losses must have occurred for favorable action to be taken on claims in the second China Claims Program was established because the Congress of the

United States had previously made provisions under Title V of the Act, supra, for the filing and adjudication of claims by nationals of the United States for property losses in China that arose between October 1, 1949 and November 6, 1966, and mandated a date by which such a claims program must be completed. Accordingly, the Commission concluded that its jurisdiction over such claims expired on July 6, 1972, and that it no longer has the authority to accept and take favorable action on those claims. Congress having provided its remedy for the 1949-1966 claims, the Commission is not at liberty to provide another.

This situation is not unique in the programs that the Commission had been authorized to administer in the past. Subsequent to completion of claims programs against the Governments of Bulgaria, Hungary, and Rumania, on August 9, 1959, the Government of the United States reached claims agreements with those governments. The Commission was unable to implement the claims agreements under Title I of the Act without legislative authorization because the United States had declared the existence of a state of war against those countries during World War II. In each case the Congress enacted second claims programs by amending Title III of the International Claims Settlement Act of 1949, and limited the compensable claims to those for losses which occurred after the dates covered by the first claims programs. [82 Stat. 42 (1968); 88 Stat. 1386 (1944); 22 U.S.C. Sec. 1641].

Following the legislative precedent in these second programs which precluded the favorable consideration of claims that arose during the period covered by the first programs, the Commission concludes that it does not have the jurisdiction to consider claims against the PRC that arose prior to November 6, 1966 and after May 11, 1979,

the date of the agreement with the PRC. (See Claim of Jose Maria Xavier, Claim No. CN-2-017, Decision No. CN-2-001.)

On the Statement of Claim, FCSC Form 780-2, claimants were advised that documentation must be submitted at the time of filing to establish ownership and the date and manner of taking of the subject property. The claimants assert that three parcels of real estate which they owned in Shanghai were confiscated in June 1968.

Claim of Lawrence C. Cheng (CN-2-019)

The evidence submitted in support of the claim of Lawrence C. Cheng bears on the ownership of a parcel of real property described on the claim form as Block No. 11231 (formerly Mormain Street, International Settlement) in Shanghai, known as "Plum Villa." This parcel purportedly consisted of 2.882 acres with twelve houses in three rows of four each erected thereon. The claimant asserts title by deed of conveyance from his father, Cheng You-Soong, but does not indicate the date of such a conveyance.

In support of his assertion of ownership the claimant has submitted an uncertified copy of a recorded deed and plot plan in Chinese with an unsworn partial translation purportedly dated December 8, 1948 and stating ownership in Cheng Hsu-Hung (claimant) of 2.882 acres of land on Mormain Road, North, Wong-Pu District, consisting of twelve two-story houses. The claimant, subsequently, submitted a certified copy of a recorded deed and plot plan in Chinese which appears to contain the exact same text but is certified to be dated December 8, 1937 and is translated (unsworn) as stating title in Cheng Hsu-Hung of 2.882 Mou residential property at Mormain North Lu, Hwang-Pu District consisting of twelve two-story dwellings. The claimant, also, submitted an uncertified copy with a partial unsworn translation purportedly of a page of a book of accounts of tenants and rentals of the twelve dwellings for September 1947.

The only evidence that has been submitted which is dated after November 6, 1966 and bears upon the ownership of this parcel of real estate is a sworn statement dated January 6, 1980 (sworn to after submission) by the claimants in these three claims indicating that this parcel was owned solely by "Lawrence C. Cheng under the name of Cheng Hsu-Hung."

The claimants, also, assert in that statement that this parcel was "confiscated by the Government in 1968 after the Cultural Revolution." However, there is no indication that these claimants had any personal knowledge of the status of this parcel after they left China, apparently in the late 1940's. The claimant did not submit any evidence to document or establish the asserted confiscation of this parcel.

CLAIM OF LAWRENCE C. CHENG AND PAULINE CHENG (CN-2-023)

The claim of Lawrence C. Cheng and Pauline Cheng alleges joint ownership of a parcel of real property described on the claim form as Comfort Terrace located at Wei-Hai Zhong Lu (formerly Avenue Joffre and Bayer Streets, French Concession, International Settlement) in Shanghai. This parcel purportedly consisted of forty-seven houses and units on ten acres. The claimants assert title by intervivos gift in 1932 from their father, Cheng You-Soong, two-fifths interest to Cheng Hsu-Hung (Lawrence C. Cheng) and one-fifth interest to Cheng Ming-Hung (Pauline Cheng) (other two-fifths interest to their brother who remained a citizen of the PRC). According to date of birth information on the DSP-13 Forms submitted with this claim, Lawrence C. Cheng would have been nineteen years old and Pauline Cheng would have been five years old in 1932.

The evidence submitted bearing on this parcel was the previously mentioned sworn statement of the three claimants dated January 6, 1980. The statement asserts that the ownership of the parcel was as above outlined, that the title deed was lost during the Cultural Revolution, that the "property was confiscated after 1968," and that the only record of their ownership is a record of tenants and rentals

paid for the 43 housing units in the parcel. A certified copy of such tenant and rental record in Chinese dated 1945 with unsworn partial translation was submitted. No other evidence was submitted to establish the ownership of this parcel after November 6, 1966, nor was any evidence submitted to document or establish the asserted confiscation of the parcel. As previously noted, there is no indication that these claimants had any personal knowledge of the status of this parcel after they left China; apparently in the late 1940's.

THE CLAIM OF VERA W. CHENG (CN-2-022)

Evidence has been submitted in support of the claim of Vera W. Cheng bearing on the ownership and confiscation of a parcel of real property described as a house and land (0.445 acres) at 46 Shao-Shing Road. (formerly Emanuel Road) in Shanghai. The claimant asserts title by deed of conveyance from her mother on November 13, 1948.

In support of her assertion of ownership the claimant has submitted an uncertified copy of a recorded deed, transfer and plot plan in Chinese with an unsworn partial translation purportedly dated November 13, 1948 (transfer dated March 14, 1949) and stating ownership in Wang Tsai Sui-Yuin of 0.445 Mou of land on Shao-Shing Road, Wong Pu District with two houses, three stories, twelve rooms. The transfer is of one-half of the entire property to Wang Yu-Bei (claimant) purportedly being House No. 46. The claimant, subsequently, submitted a certified copy of a recorded deed, transfer, and plot plan in Chinese which appears to contain the exact same text but is certified to be dated March 20, 1938 and is translated (unsworn) as stating title in Wang Tsai Sui-Yuin of 0.445 Mou (acre) of land on Shao-Shing Lu, Hwang-Pu District with two three-story dwellings - total of twelve rooms. The transfer is of one-half of property to Wang Yu Bei being House No. 46 and one-half of property to Wang Yu Sing being House No. 48. It is noted that the claimant asserts ownership

of 0.445 Mou (acre) on the claim form and she asserts in a sworn statement dated January 6, 1980, that the deed covers Nos. 44 and 46 and that Lot 44 belongs to Wang Yu-Sing. It is, also, noted that apparently the name of the road on which this parcel is located is now Shao-Shing Road (or Lu), but prior to the ascension of the present government to power in 1949, this road was known as Emanuel Road. However, these pre-1949 deeds are translated as stating the location of the parcel as Shao-Shing Road (or Lu).

The claimant submitted three original letters from Chung-Zang (7th uncle) (a/k/a C.Z. Wang) of Shanghai with sworn translations which bear upon both the assertions of ownership and date of taking of this parcel. One letter to the claimant (dated July 12, 1979) says that claimant owns No. 46 on Shao-Shing Road. Another letter to the claimant (dated May 4, 1979) says that claimant's father owned four houses - Nos. 44, 46, 48, and 50 - on Shao-Shing Lu, formerly Rue Emanuel, that the "owner of Nos. 44 and 46 is Wang Yu-Bei [the claimant] etc., and Nos. 48 and 50 Wang Yu-Wei, etc.," and that he was told by claimant's father that one house was given to each child. The third letter to "Nephew Yu-Wei," apparently claimant's brother (dated September 15, 1978) states that claimant owns Nos. 44 and 46 on Shao-Shing Lu (formerly Rue Emanuel).

In regard to the taking of this parcel the statements in these three letters are contradictory as to the status of the subject parcel (No. 46). The letter of September 15, 1978 states that when the father of the claimant left Shanghai he entrusted the management of the four properties to 7th uncle (the correspondent, Chung-Zang); that Nos. 44, 48, and 50 were leased, No. 46 was not, when in 1956 the government placed all rental property under joint government-private control, "the government took over the management of the property. However, No. 46 remained under my management." This letter, then, states that he (Chung-Zang) and his

family had been living in No. 46 "until June 1968," that, "Because of the cultural revolution all privately-owned property were taken by the government. At the same time the house in which we lived was divided into two sections"; and that after the division of the house they continued to live in one section. The letter states that according to a new government housing policy "all property belonging to overseas Chinese with foreign nationalities will be returned to the original owners. All that is needed is a letter from you [Cheng Wang Yu-Bei] to explain the situation and a new letter of authorization to have me manage your property. Then I can continue to manage your property." The remainder of the letter implores the claimant to send such a letter of authorization so that Chung-Zang and family can continue to live in and manage No. 46, so that the government will take the responsibility of removing the tenants, so that the claimant can protect her property rights. The letter states that such a letter of authorization will cause no bother nor adverse consequences.

The letter of May 4, 1979, is substantially the same as the previously discussed letter except that he (Chung-Zang) indicates that he is managing and living in the property (No. 46) as trustee of property owner and that, since the property was divided into two sections during the cultural revolution, his family has lived in one section and claimant's seventh aunt and her family have lived in the other section. This letter, also, implores the claimant to send a letter of authorization so that he can continue to live and manage the property, "it will also mean that my living problem will be solved. There will be a hundred advantages and no disadvantages."

The third letter, dated July 12, 1979, states that the taxes and costs of repairs on No. 46 have been paid in full by Chung-Zang since claimant's father asked him to care for properties thirty years ago. He says, "Therefore, from now onward, as caretaker for the property owner, I shall assume,

as I have been doing for the past 30 years, the cost of all taxes, repairs, and legal obligations. I consider that elder brother [claimant's father], when he was alive, had solemnly instructed me to properly manage the property which he left to four of you, nieces and nephews. Today, I must still follow his instructions and fulfill my obligations to properly manage the property." The letter, then, states, "At present our country, because of the disorders caused by the 'gang of four' over the first ten years, and in order to protect the property in China owned by overseas Chinese or Chinese with foreign citizenship, requires that you submit in writing once more a letter asking me to manage your property."

The Commission is not persuaded by the contentions of the claimant that the evidence submitted establishes a taking between November 6, 1966 and May 11, 1979. It is noted that Chung Zang continued to manage and live in one portion of the property after it was purportedly confiscated and divided into two sections, and that members of a closely related family lived in the other portion of the property. This continuity of occupancy and the existence and fulfillment of tax, repair, and other legal obligations for the property over a thirty year period do not seem to comport with the assertion that the property was confiscated by the government during that period.

By letter of December 17, 1979 the attorney for the claimants was requested to submit additional evidence and documentation to clarify the circumstances and establish the dates of taking of the three subject parcels. The only submission in this regard was the previously discussed sworn statement of the claimants dated January 6, 1980, which repeats statements on the claim forms and in the letters reviewed above, but does not indicate any personal knowledge of the status of these parcels after they left China, apparently

in the late 1940's. In the same letter the attorney for the claimants was advised of the requirement to submit statements that are sworn under oath, complete sworn translations (certified to be true and correct by the translator) of evidence in a foreign language and certified copies or original documents. In response thereto sworn statements, some originals, some certified copies, and some sworn translations were submitted. However, some translations were certified true and correct by a notary public who has no established basis to make such a certification.

The Regulations of the Commission provide:

Claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. 531.6(d) (1977).)

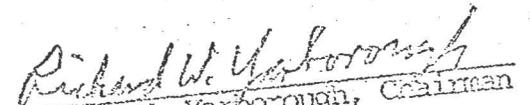
Based on the foregoing, the Commission finds that the evidence of record in this claim is not sufficient to establish that the property or interest therein claimed was nationalized or otherwise taken by the PRC between November 6, 1966 and May 11, 1979.

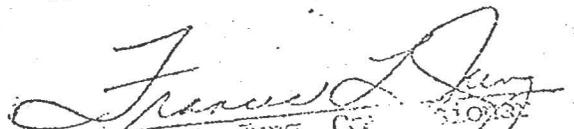
Accordingly, the Commission concludes that this claim must be and it hereby is denied.

The Commission deems it unnecessary to consider any other elements of this claim.

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

OCT 8 1980


Richard W. Yarborough, Chairman


Francis L. Jung, Co-Chairman

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.)