

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

IN THE MATTER OF THE CLAIM OF

MILUSHKA BINDER

Under the Yugoslav Claims Agreement of 1964
and Title I of the International Claims
Settlement Act of 1949, as amended

Counsel for Claimant:

Claim No. Y2- 0163

Decision No. Y2- 305-A

Paul Neuberger, Esq.

AMENDED PROPOSED DECISION

The Commission issued a Proposed Decision in this claim on February 21, 1968 granting claimant an award in the principal amount of \$19,333.46 with interest thereon at 6% per annum from March 8, 1961 to January 20, 1965 in the amount of \$4,485.36. The award was based on the purchase price of 950,000 dinars which claimant paid on August 27, 1940 for the property consisting of a plot at No. 5 Djure Djakovic Street in Belgrade, measuring 301.3 square meters with an apartment house erected thereon.

Claimant, through counsel, objected to the Proposed Decision and stated that information obtained subsequently reveals that the property, after its purchase in 1940, was thoroughly rebuilt and reconstructed. Claimant further stated that the cost of reconstruction amounted to 970,000 dinars.

In support of these statements, claimant submitted the original plans which were submitted to the Municipality of Belgrade, a verified copy of a certificate of the Technical Director of the City Council of Belgrade, dated October 15, 1940, and a technical description of the

rebuilding project. Additionally, claimant submitted a certificate executed by Branko N. Jovanovic, an architect of Belgrade, and Andrija J. Popovic, an attorney-at-law of Belgrade, in which they jointly state that they examined the records of the Building Board of the City of Belgrade and found that the reconstruction of the property was completed by December 10, 1940 and that its cost amounted to 970,000 dinars.

Based upon this evidence, the Commission now finds that at the time of its nationalization the subject property was worth 1,920,000 dinars. Expressed in United States currency, at the established rate of exchange of 44 dinars for \$1.00, this value is equivalent to \$43,636.36.

As stated in the Proposed Decision of February 21, 1968, an amount of \$1,033.33 has to be deducted from the award for the amount of the mortgages which encumbered the property at the time of nationalization. A further amount representing twenty-five per cent (25%) of 127/560 of the value of the property has to be deducted for the apartments exempted from nationalization in favor of the claimant. The exempted apartments have a value of a 127/560 of \$43,636.36, or \$9,896.10; twenty-five per cent of this amount is \$2,474.03.

As a result, the value of claimant's interest in the nationalized property is

		\$43,636.36
Less value of mortgages	\$ 1,033.33	
Less value of exemptions	<u>\$ 2,474.03</u>	
		<u>-\$ 3,507.36</u>
		\$40,129.00

It is, therefore,

ORDERED that the Proposed Decision of February 21, 1968 be and the same is hereby amended to reflect the above new findings and the award section is restated as specified below.

The Commission has decided that in granting awards on claims under the Yugoslav Claims Agreement of 1964, interest shall be allowed at the rate of 6% per annum from the date of loss to January 20, 1965. Accordingly, the amount of the award will be increased to that extent.

A W A R D

An award is hereby made to MILUSHKA BINDER in the principal amount of Forty Thousand One Hundred Twenty-Nine Dollars (\$40,129.00) together with interest thereon in the sum of Nine Thousand Three Hundred Nine Dollars and Ninety-Three Cents (\$9,309.93) which interest is at the rate of 6% per annum from March 8, 1961, the date the claim arose, to January 20, 1965, the date on which the Yugoslav Claims Agreement entered into force.

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

3 JUL 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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 Amended 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, 32 Fed. Reg. 412-13 [1967].)

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

IN THE MATTER OF THE CLAIM OF

MILUSHKA BINDER

Claim No. Y2- 0163

Decision No. Y2-

305

Under the Yugoslav Claims Agreement of 1964
and Title I of the International Claims
Settlement Act of 1949, as amended

Counsel for claimant:

Paul Neuberger, Esq.

PROPOSED DECISION

This claim for \$82,000 is based upon the asserted ownership and loss of improved real property located in Belgrade, Yugoslavia. Claimant, MILUSHKA BINDER, has been a national of the United States since her naturalization on March 2, 1953.

Under Section 4(a) of the International Claims Settlement Act of 1949, as amended (64 Stat. 13 (1950), 22 U.S.C. §1623(a) (1958)), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Yugoslav Claims Agreement of November 5, 1964 and the Commission is directed to apply the following in the following order:

(1) The provisions of the applicable claims agreement as provided in this subsection; and (2) the applicable principles of international law, justice and equity.

Among other things, the Agreement provides as follows:

Article I. (a) The Government of Yugoslavia agrees to pay, and the Government of the United States agrees to accept, the sum of \$3,500,000 United States currency in full settlement and discharge of all pecuniary claims of nationals of the United States, whether natural or juridical persons, against the Government of Yugoslavia, on account of the nationalization and other taking of property and of rights and interests in and with respect to property which occurred between July 19, 1948 and the date of this Agreement.

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Article II. The claims of nationals of the United States to which reference is made in Article I of this Agreement refer to claims which were owned by nationals of the United States on the date on which the property and rights and interests in and with respect to property on which they are based was nationalized or taken by the Government of Yugoslavia and on the date of this Agreement. (Agreement between the Government of the United States and the Government of the Socialist Federal Republic of Yugoslavia Regarding Claims of United States Nationals, November 5, 1964, which entered into force on January 20, 1965, 16 U.S.T. & O.I.A. 1965, T.I.A.S. No. 5750 (1964).)

The record before the Commission shows that claimant was the owner of improved real property at No. 5 Djure Djakovic Street, recorded in Liber No. 1401 of the cadastral district of Belgrade I as parcel No. 1056, consisting of land with an area of 301.3 square meters, containing a brick apartment building with a basement, ground floor, and three floors above the ground floor.

The record further shows that the subject property was nationalized by the Government of Yugoslavia on March 8, 1961 by virtue of a decision issued by the Nationalization Commission for the Old City of Belgrade under No. N6145/59, pursuant to the Law on Nationalization of Buildings for Rent and Building Lots of December 26, 1958 (\$1. List (Yugoslavia), No. 52, Item 890, December 31, 1958). Exempted from nationalization and left in the ownership of the claimant were one three-room apartment No. 7 on the third floor, and one one-room apartment (efficiency) No. 8 on the same floor.

Claimant submitted a description of the property and an appraisal dated March 28, 1960, executed by Branko Jovanovic, a civil engineer of Belgrade, who states that the building lot had a value of 120,400 prewar dinars, and that the building was worth 20,673,025 dinars expressed in postwar (1960) currency, or \$37,191.37.

The Yugoslav Government furnished an appraisal executed by three experts who stated that the prewar value of the property including the land was 642,130 dinars, or \$14,593.86.

The Commission conducted an independent investigation in this matter and obtained the information that claimant acquired the entire property on August 27, 1940 for a price of 950,000 dinars, pursuant to the original purchase and sales contract on file with the Second Municipal Court of Belgrade.

The Commission has decided that the prewar (1938-1940) values reflect a better basis for the appraisal of property and are to be considered as the point of reference for valuation purposes; that depreciation of the buildings during and after the war was largely set off by appreciation of real estate values after World War II; and that the prewar dinar currency shall be converted into United States currency at the rate of 44 dinars for \$1.00. (See Claim of Alexis G. Bacic, Claim No. Y2-0522.)

Based upon the entire record, the Commission finds that at the time of nationalization the subject property had a value of 950,000 prewar dinars, the price paid for the property by the claimant in 1940. Expressed in United States currency, this value is equivalent to \$21,590.91.

The Commission has noted that at the time of nationalization mortgages in the aggregate amount of 550,000 prewar dinars in favor of the State Mortgage Bank of Belgrade and a mortgage of 720,000 postwar dinars in favor of the Communal Bank of Belgrade were recorded on the property. The Commission finds that the mortgages in prewar dinars were reduced to 55,000 postwar dinars by virtue of the Law on Settlement of Prewar Obligations (Sl. List (Yugoslavia), No. 88, Item 841, November 13, 1945) and that the above mortgages were discharged from the nationalized property.

Paragraph 3 of the Interpretative Minute to the Yugoslav Claims Agreement of 1964 provides as follows:

Rights and interests in and with respect to properties which are mortgaged or otherwise encumbered by an owner or the owners thereof are covered and settled by this Agreement for the amount of the equity or value remaining after deduction of the principal amount of such mortgage or other encumbrance.

Accordingly, the Commission finds that the value of the property must be reduced by 775,000 postwar dinars, which, converted at 750 : 1 - the applicable exchange rate of the dinar at the time of nationalization - amounts to \$1,033.33. Therefore, the net value of the property at the time of the loss was \$20,557.58.

Paragraph 2 of the Interpretative Minute to the Yugoslav Claims Agreement of 1964 provides as follows:

Properties or parts thereof which have been exempted from nationalization or other taking by the Government of Yugoslavia in accordance with the laws of Yugoslavia are not covered or settled by this Agreement.

The apartments, Nos. 7 and 8, which were exempted from nationalization have a useful dwelling space of 127 square meters, compared to a total useful dwelling space of 560 square meters for the entire building. The Government of Yugoslavia in nationalizing the building cancelled the mortgages but placed 4/27 of the original obligation as a lien on the exempted apartments. The Commission is aware that the apartments under the laws and regulations prevailing in Yugoslavia cannot be used by the claimant as long as they are occupied by tenants and that she has no control over the selection of present or future tenants; nor has she any means to evict the tenants except under extraordinary circumstances not present here. The income from rent is negligible and in the present claim the circumstances indicate that such income is used in its entirety by the local housing authorities for the payment of taxes, for the satisfaction of the mortgages, and for repairs. The claimant, not a resident of Yugoslavia, obviously does not use the exempted apartments and their value to the claimant is a fraction of the value which the apartments would be worth, if the owner had the right to use them. A sale of the occupied apartments is practicable to a very limited extent only and the proceeds of a sale, if any, would amount to a fraction of the sale price for an unoccupied apartment free for the use of the owner.

Based upon Commission information concerning sales transactions concluded in Yugoslavia, the Commission finds that this type of occupied apartment, such as those exempted from nationalization in the present claim, had a market value of twenty-five per cent (25%) of free apartments evaluated in prewar dinars. As stated above, the Commission found that the value of the entire building prior to any deductions was 950,000 dinars. The exempted apartments would represent a 127/560 value thereof, or 215,446.48 dinars. However, in view of the foregoing, the Commission finds that, at the time of nationalization, the exempted apartments had a value of 53,861.61 prewar dinars (25% of 215,446 prewar dinars) or, expressed in United States currency at the exchange rate of 44 : 1, \$1,224.12

As a result, the value of claimant's interest in the nationalized property is	\$ 20,557.58
less value of exempted apartments	<u>-\$ 1,224.12</u>
Net Value after Exemption	\$ 19,333.46

The Commission, therefore, concludes that claimant is entitled to an award in the principal amount of \$19,333.46.

The Commission has decided that in granting awards on claims under the Yugoslav Claims Agreement of 1964, interest shall be allowed at the rate of 6% per annum from the date of loss to January 20, 1965, the date on which the Agreement entered into force and effect. Accordingly, the amount of the award will be increased to that extent.

A W A R D

An award is hereby made to MILUSHKA BINDER in the principal amount of Nineteen Thousand Three Hundred Thirty-three Dollars and Forty-six Cents (\$19,333.46) with interest thereon at 6% per annum from March 8, 1961, the date the claim arose, to January 20, 1965, the date on which the Yugoslav Claims Agreement entered into force, in the sum of Four Thousand Four Hundred Eighty-five Dollars and Thirty-six Cents (\$4,485.36).

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

FEB 21 1968

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, 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, 32 Fed. Reg. 412-13 (1967).)

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