

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

IN THE MATTER OF THE CLAIM OF

ENID CLARICE GUTTMAN

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

Claim No. Y2-0839

Decision No. Y2-1720

Counsel for Claimant:

Covington and Burling
by John G. Laylin, Esq.

Appeal and objections from a Proposed Decision entered on April 9,
1969.

No oral hearing requested. Hearing on the record held on June 18, 1969.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on April 9, 1969. An award was made to claimant, ENID CLARICE GUTTMAN, in the principal amount of \$69,000.00 plus interest in the sum of \$30,002.46 for the loss of her interests in certain real properties in Yugoslavia. A portion of the claim, based upon furniture and furnishings of the Villa Tolnai in Opatija, uncollected rental income, a bank account and contents of a safe deposit box, was denied.

Claimant filed objections to that portion of the Proposed Decision in which the claim made for the furniture and furnishings of the Villa Tolnai was denied. Other portions of the Proposed Decision were not objected to.

Full consideration having been given to claimant's objections to the Proposed Decision and based upon the entire record, as supplemented by two newly submitted documents, namely the letter

of August 22, 1951 of the District Court in Opatija and the letter of November 27, 1951 of the People's Committee in Opatija, the Commission finds that claimant's objections are not supported by the aforesaid documents and do not warrant a change in the Proposed Decision. Accordingly, it is

ORDERED that the Proposed Decision of April 9, 1969 be and the same is affirmed.

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

JUN 26 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

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**Under the Yugoslav Claims Agreement of 1964
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Counsel for claimant:

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PROPOSED DECISION

This claim, in the amount of \$609,000.00, is based upon the asserted ownership and loss of property in Yugoslavia as follows:

- (1) No. 3 Ivan Rendic Street in Rijeka;
- (2) No. 2 Carpaccio Street in Rijeka;
- (3) No. 10 Lesinjska Street in Zamet;
- (4) Villa Tolnai in Opatija;
- (5) personal property consisting of furniture and household furnishings;
- (6) uncollected rental income; and
- (7) bank account and contents of a safe deposit box.

Claimant, ENID CLARICE GUTTMAN, has been a national of the United States since her birth on December 5, 1917.

Under Section 4(a) of Title I of the International Claims Settlement Act of 1949, as amended (64 Stat. 13 (1950), 22 U.S.C. §1623(a) (1964)), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Yugoslav Claims Agreement of 1964, which provides, among other things:

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.

. . .

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, [1965] 16 U.S.T. 1, T.I.A.S. No. 5750 (effective January 20, 1965).)

The extracts from the land records, submitted by claimant, show, and the Commission finds that claimant, ENID CLARICE GUTTMAN, owned real property in Yugoslavia as follows:

(1) the entire fee in the real property at No. 3 Ivan Rendic Street in Rijeka, recorded in liber No. 1306 of Rijeka as land parcel No. 2125, which was taken on May 14, 1960 by Decision No. Kn. 447/60 of the Nationalization Commission in Stari Grad;

(2) the entire fee in the real property at No. 2 Carpaccio Street in Rijeka, recorded in liber No. 1927 of Rijeka as land parcel No. 1828/2, which was taken on May 14, 1960 by Decision No. Kn.295/60 of the Nationalization Commission in Stari Grad;

(3) a 1/3 interest in the real property at No. 10 Lesinjska Street in Zamet, recorded in liber No. 1006 of Zamet as land parcel Nos. 1632/1 and 368, which was taken on July 23, 1948 by Decision No. 9146/2 of the Municipality of Rijeka; and

(4) a 1/3 interest in the real property known as Villa Tolnai in Opatija, recorded in liber No. 134 of Opatija as land parcel Nos. 56 and 217, which was taken on July 30, 1948 by Decision No. 9741/48 of the Municipality of Opatija.

On the basis of the evidence mentioned and photographs submitted by claimant, the Commission further finds as follows:

(1) No. 3 Ivan Rendic Street consisted of a land parcel of 113 square fathoms improved by a four-story apartment house having 10 two-room and 11 one-room apartments with kitchen;

(2) No. 2 Carpaccio Street consisted of a land parcel of 201.50 square meters improved by a two-story building having 8 two-room and 1 one-room apartments with kitchen;

(3) No. 10 Lesinjska Street consisted of a parcel of land of unestablished size, improved by a house having 2 two-room apartments with kitchen;

(4) the Villa Tolnai consisted of two land parcels having a total area of 524 square meters improved by a dwelling house built in or about 1910.

On the basis of all evidence of record, including evidence of values of similar properties in Yugoslavia, the Commission finds that on the respective dates of loss the properties and claimant's interests therein had values as follows:

<u>Property:</u>	<u>Value:</u>	<u>Claimant's interest:</u>	<u>Value thereof:</u>
No. 3 Ivan Rendic St.	\$42,000.00	1/1	\$42,000.00
No. 2 Carpaccio St.	\$12,000.00	1/1	\$12,000.00
No. 10 Lesinjska St.	\$ 9,000.00	1/3	\$ 3,000.00
Villa Tolnai	\$36,000.00	1/3	<u>\$12,000.00</u>
			\$69,000.00

Accordingly, the Commission concludes that claimant is entitled, under the terms of the Yugoslav Claims Agreement of 1964, to compensation in the amount of \$69,000.00.

Upon the demise of the late Simon Tolnai, on May 8, 1945, the above-mentioned real properties were inherited by ENID CLARICE GUTTMAN, the claimant herein, and Lajos Tolnai and Sandor Tolnai, her uncles, in equal shares. In 1957 and in the course of the inheritance proceeding instituted in Yugoslavia concerning the above-mentioned prop-

erties, Lajos Tolnai and Sandor Tolnai renounced their respective interests in the properties in favor of the claimant. The Commission holds, as it has done previously (Claim of Arthur Dobozy, et. al., Claim No. HUNG-21300, FCSC Dec. & Ann. 214 (1968)) that the "renunciation" of the inherited interests constituted an assignment to claimant which was effective as of the date of the renunciation and not as of the date of death of the deceased owner. The real properties at No. 3 Ivan Rendic Street and No. 2 Carpaccio Street were taken by the Government of Yugoslavia in 1960 when they were already owned in their entirety by the claimant, a national of the United States. The remaining 2/3 interest in the real properties at No. 10 Lesinjska Street and Villa Tolnai, and the claim for compensation based upon the loss of such interest, however, were owned by Lajos Tolnai and Sandor Tolnai, both Hungarian nationals, from May 8, 1945, the death of the former owner Simon Tolnai, until the date of the assignment in 1957. Inasmuch as the renounced 2/3 interest in the real properties at No. 10 Lesinjska Street and Villa Tolnai was not owned by a national of the United States from July 23 and 30, 1948, respectively, the dates when the claims arose, until its assignment to claimant in 1957, as required for compensation under the terms of the Agreement discussed above, the portion of the claim which is based upon such assigned interest in the real properties at No. 10 Lesinjska Street and Villa Tolnai must be and it is hereby denied.

A portion of the claim is based upon asserted ownership and loss of personal property consisting of the furniture and furnishings of the Villa Tolnai in Opatia.

The submitted document entitled "Inventory and Estimate" shows that the furniture and furnishings of the Villa Tolnai, listed in that document and forming a portion of the estate of Simon Tolnai, was placed under temporary administration on February 28, 1946. No further evidence was submitted in support of this portion of the claim.

Accordingly, the Commission finds that claimant has failed to establish that the personal property consisting of the furniture and furnishings of the Villa Tolnai, upon which a portion of the claim is based, was nationalized or otherwise taken by the Government of Yugoslavia between July 19, 1948 and January 20, 1965, the period covered by the Agreement, and for that reason the portion of the claim which is based upon such property must be and it is hereby denied.

A further portion of the claim is based upon uncollected rental income, apparently from the above-mentioned real properties. The net rental income from the respective dates of loss is not ascertainable. However, even if it were ascertainable, there is no evidence of record to establish a nationalization or other taking of such income by the Government of Yugoslavia. Rents for any period from the respective dates when the claim arose belong to the Government of Yugoslavia rather than to claimant, the previous owner of the property, and are not a proper basis for a claim under the Agreement. Compensation is granted to the claimant in the form of 6% interest on the award from the date of loss, which represents compensation for the loss of use of the money claimant should have received for the taking of his property on that date. Accordingly, the portion of the claim based upon loss of rental income, must be and it is hereby denied.

The remaining portion of the claim, based upon an unidentified bank account and unidentified contents of a safe deposit box, is also denied for claimant's failure to submit evidence and establish her ownership of such property, its value, and its taking by the Government of Yugoslavia during the period from July 19, 1948 to January 20, 1965.

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. (See Claim of Alexis G. Basic, Claim No. Y2-0522, 1967 FCSC ANN. REP. 75.) Accordingly, the amount of the award will be increased at the rate of 6% per annum

on \$54,000.00 from May 14, 1960, in the amount of \$15,174.00;

on \$3,000.00 from July 23, 1948, in the amount of \$2,968.50;

and

on \$12,000.00 from July 30, 1948, in the amount of \$11,859.96;

amounting to a total sum of \$30,002.46.

A W A R D

An award is hereby made to ENID CLARICE GUTTMAN in the principal amount of Sixty-Nine Thousand Dollars (\$69,000.00) together with interest thereon in the sum of Thirty Thousand Two Dollars and Forty-Six Cents (\$30,002.46) which interest is at the rate of 6% per annum from the respective dates on which 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 Proposed
Decision of the Commission

APR 9 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

The terminal date for the Yugoslav Claims
Program is set for July 15, 1969.

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).)