

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

IN THE MATTER OF THE CLAIM OF

CHARLES VINCENT COLLINS

Claim No. CZ-2-0056

Decision No. CZ-2-0829

Hearing on the record held on NOV 28 1984

FINAL DECISION

This claim in the amount of \$255,000.00 against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) is based upon the loss of an apartment building in Prague.

By Proposed Decision issued October 17, 1983, the Commission made an award to claimant in the principal sum of \$17,000.00 for his 17/20 interest in an apartment building. By letter dated November 4, 1983, claimant objected on the record to the Proposed Decision of the Commission and asserts the Commission undervalued the building. Claimant has submitted various arguments although no additional evidence in support of the objection.

In viewing the entire record the Commission notes that it is not clearly established if or when legal title to 17/20 of this building was taken by the Czech State. A judgement was rendered against claimant as of April 21, 1980 in the amount of 259,329.30 Kcs. for debts accumulated in the repair and upkeep of the building and apparently an attempt was made to execute upon and sell the property to satisfy this judgement. A court decision of June 30, 1980 enjoined the execution of the judgement by the sale of the real property and what transpired thereafter is not established by the record.

Despite this the Commission found that the property had been "taken" as that term is used in Public Law 97-127 when the administration of the property was taken over by Czech authorities in 1973 on the ground that claimant had not been able to exercise indicia of ownership and control over the property after that date despite the fact that Czech authorities had apparently continued to treat claimant as the legal owner of the property up until at least 1980. This determination allowed the Commission not only to find the claim compensable but by establishing the date of taking as 1973, allowed the opportunity to increase the award by over 1/2 for interest from 1973 until February 2, 1982. In valuing the property, however, the Commission cannot overlook the fact and the record demonstrates that substantial repairs and investment was needed for this building as of 1973, the date upon which the Commission found the property was taken.

The Commission reached its valuation in part upon evidence of rent receipts and a valuation placed upon the property in 1976 as well as by comparing the valuation of this building with valuations the Commission has placed upon other property subject to awards in this program.

By way of objection, claimant asserts that rents were artificially low in Czechoslovakia and should not be considered as a valid indication of value. Claimant also asserts that the valuation of the property contained in a 1976 letter from the State law office in Prague related to the value of his inheritance and that it should be assumed that this was a deliberate undervaluation so that Czech authorities could limit the amount of dollars they would have to forward to the United States as a value of the inheritance. As Czech authorities, however, do not transfer such funds in dollars to the United States, this would not be an apparent reason to lower the valuation of an inheritance, on the contrary the inheritance evaluation is the basis

for inheritance taxes payable to the Czech government and the higher the evaluation placed on an inheritance the greater the tax receipts to the Czech government.

It is also noted that the valuation in question was not accepted by the Commission as the value of the property as the Commission's value was substantially higher than the reported Czech evaluation.

The Commission recognizes the difficulty of placing a valuation upon property in a non-free market communist society. Claimant argues that, because of that fact, the Commission should turn to replacement values for such property in the free market in western Europe. The Commission, however, rejects this method of valuation for a number of reasons. The basic rule for valuing property under international law is the actual value of the property on the date that it is taken and property cannot be valued separate and apart from its location. Additionally, it is the role of the Commission in this program to apply the same basic method of attempting to reach a fair value to each claimant who establishes a compensable claim so that evaluation of different property is on a comparable basis.

In a claim such as this the claimant is unable to make available to the Commission precise evidence such as the date and cost of construction, detailed descriptions, photographs, independent appraisals, insurance evaluation or other such precise information which might well be available if one were placing a value upon property in the United States. The criteria of "fair market value" becomes in large part meaningless in an economy with neither willing sellers nor buyers.

Faced with these difficulties, the Commission has reviewed this entire record and does not find a basis to increase its original valuation.

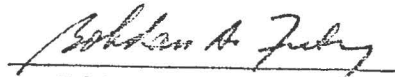
The Commission therefore restates its original award as its final determination on this claim.

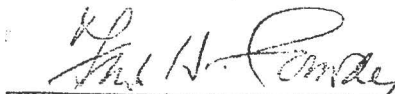
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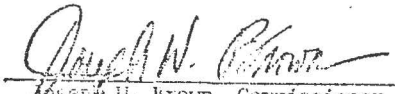
Claimant, CHARLES VINCENT COLLINS, is therefore entitled to an award in the principal amount of Seventeen Thousand Dollars (\$17,000.00), plus interest at the rate of 6% simple interest per annum from May 8, 1973 to February 2, 1984 in the amount of Eight Thousand Nine Hundred Ten Dollars and Eighty-Nine Cents (\$8,910.89), for a total award of Twenty-Five Thousand Nine Hundred Ten Dollars and Eighty-Nine Cents (\$25,910.89).

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

NOV 28 1984


Bohdan A. Futey, Chairman


Frank H. Conway, Commissioner


Joseph W. Brown, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision.

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

IN THE MATTER OF THE CLAIM OF

CHARLES VINCENT COLLINS

Claim No. CZ-2-0056

Decision No. CZ-2-0829

PROPOSED DECISION

This claim in the amount of \$255,000.00 against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) is based upon the loss of an apartment building in Prague.

The claimant has been a United States citizen since his birth on January 30, 1931.

Under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981, the Commission is given the following jurisdiction:

"The Commission shall receive and determine, in accordance with applicable substantive law, including international law, the validity and amount of claims by nationals of the United States against the Government of the Czechoslovak Socialist Republic for losses resulting from the nationalization or other taking of property owned at the time by nationals of the United States, which nationalization or other taking occurred between August 8, 1958, and [February 2, 1982]."

The record establishes that the claimant's wife, Ludmilla Collins, owned an apartment building located at 23 Jaromirova and identified as house no. 433 in Prague-Nusle. After the death of claimant's wife on July 29, 1970, CHARLES VINCENT COLLINS inherited a 17/20 interest in the property. The other 3/20 interest was inherited by the claimant's mother-in-law, a Czechoslovakian national who resided in the apartment building. After her death in January 1973, however, this 3/20 interest passed to the Czechoslovak State.

Following the death of claimant's mother-in-law the subject apartment building was placed under the administration of the District Housing Enterprise in Prague II by order of the District National Committee on May 8, 1973. Over the next three years, during which time the claimant made repeated suggestions to Czechoslovakian authorities that the Government buy out his share of the property, the District Housing Enterprise undertook general repairs to the building, the costs of which far outstripped the property's rental income. The claimant indicates that his permission was not requested and that he first learned about the expenditures in a letter from a state law office in Prague, dated October 26, 1976, advising him that the apartment building carried a debt of 279,627.47 crowns. A letter from this same law office two years earlier had indicated that the two house-related bank accounts carried balances totalling almost 28,000 crowns.

The claimant did not pay the foregoing bill and requested that further expenditures on the apartment building cease. The District Housing Enterprise in Prague II thereupon filed suit against CHARLES VINCENT COLLINS in 1978 in the District Court for Prague II for the payment of 259,329.30 crowns. The claimant was summoned to appear at the District Court for Prague II in September 1979, but wrote back to the court indicating that he considered the suit unjust and would not make the trip to Czechoslovakia. The court issued its judgement on November 8, 1979 finding in favor of the District Housing Enterprise in Prague II and ordering CHARLES VINCENT COLLINS to pay 259,329.30 crowns plus interest. Since the claimant continued to refuse such payment, the District Housing Enterprise petitioned the court on June 30, 1980 for the sale of the subject property. It is not clear that the apartment building has yet been sold since the Commission has received a report from the Czechoslovakian Government, dated February 18, 1983, which still identifies CHARLES VINCENT COLLINS as the owner of a 17/20 interest in the subject property.

Based on the foregoing evidence, however, it is clear that the claimant has been denied all control over his property and other fruits of ownership since the administration was taken over by the District Housing Enterprise in Prague II. The property has incurred a massive debt without his knowledge or permission and may well now be in the process of sale, for which the claimant will undoubtedly receive no compensation. In its report to the Commission, dated February 18, 1983, the Czechoslovakian Government acknowledged that the subject property has been in the use of a "socialist organization" since May 8, 1973--the date the administration was assumed by the District Housing Enterprise in Prague II. Based on the entire record, the Commission concludes that the apartment building at 23 Jaromirova in Prague-Nusle was taken by the Government of Czechoslovakia, within the meaning of subsection 5(a) of Public Law 97-127, on May 8, 1973. Since the claimant has been a lifelong national of the United States, he is entitled to an award under the Act.

In determining the value of the subject property, the Commission has considered such evidence as its "officially established value" as given to the claimant by the state law office in Prague in 1976, rental income during the 1970's, a description of the premises by the Czechoslovakian Government in its report to the Commission, and the claimant's own description of the property. The record indicates that the apartment building was constructed around 1920 and contains four stories with twelve apartment units consisting of commercial space on the ground floor and residential space above. The Commission notes once again that the Czechoslovakian Government had to spend a considerable sum for repairs to the premises during the 1950's. The lot measures 424 square meters, or approximately 1/10 acre. Based upon the entire record, the Commission determines that the subject property had a value of \$20,000.00 at the time of its loss in 1973. For his 17/20 interest in the property, therefore, claimant CHARLES VINCENT COLLINS is entitled to an award in the principal amount of \$17,000.00.

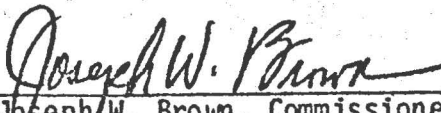
The Commission has concluded that in granting awards under subsection 5(a) of Public Law 97-127, for the nationalization or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to February 2, 1982, the date the claims settlement agreement between the United States and Czechoslovakia came into affect.

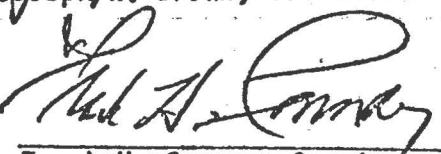
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Claimant, CHARLES VINCENT COLLINS, is therefore entitled to an award in the principal amount of Seventeen Thousand Dollars (\$17,000.00), plus interest at the rate of 6% simple interest per annum from May 8, 1973 to February 2, 1982 in the amount of Eight Thousand Nine Hundred Ten Dollars and Eighty-Nine Cents (\$8,910.89), for a total award of Twenty-Five Thousand Nine Hundred Ten Dollars and Eighty-Nine Cents (\$25,910.89).

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

OCT 17 1983


Joseph W. Brown, Commissioner


Frank H. Conway, 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.)

CZ-2-0056