

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

IN THE MATTER OF THE CLAIM OF

ESTATE OF KARLA WEISS, DECEASED;
JAN V. WHITE, EXECUTOR

Claim No. CZ-2-1436

Decision No. CZ-2-1299

Counsel for Claimant:

John P. Reiner, Esquire
William W. Reiner, Esquire

PROPOSED DECISION

This claim in the amount of \$25,000.00 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 asserted loss of an apartment house and lot at Holeckova ulice 50 in Prague-Smichov.

Claimant's decedent, Karla Weiss, who died on April 22, 1983, subsequent to the filing of the present claim, had become a United States citizen by naturalization on May 3, 1954.

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 in this claim contains a copy of an extract from the land register of Prague-Smichov and a copy of a decision by the Department of Housing Administration of the Local National Committee of Prague 5-Smichov dated February 21, 1968, indicating that the late Karla Weiss and her husband, Emil Weiss, who became a United States citizen on May 3, 1954, and died in the United States in or about 1962, were the owners of one-fourth interests

in an apartment house identified as No. 2261 and a garage, building lot and two "garden" lots at Holeckova ulice 50 in the Smichov section of Prague, and it is asserted that these interests were taken by the Government of Czechoslovakia in 1968. The record also contains a copy of the will of Emil Weiss, wherein the late Karla Weiss was designated as the sole residuary beneficiary of his estate, as well as a copy of the late Karla Weiss's will, wherein her son, Jan V. White, is named as the executor of her estate.

The Department of Housing Administration's decision of February 21, 1968, cited above, stated that the real property in question was to be placed under national administration pursuant to Law No. 5/1945 Sb. effective March 1, 1968, because of the "advanced age and sickness" of the co-owner Arnost Weisz, brother-in-law of the late Karla Weiss, who theretofore had been residing in and managing the property, and also "because the other co-owners lived abroad." The decision further stated that on the effective date Mr. Arnost Weiss would lose his authority as manager to have the "right of disposition regarding repairs and collection of rental" on the property. Thus, the theory of the claim is that the the late Karla Weiss's one-half interest in the property was nationalized or otherwise taken by the Government of Czechoslovakia, within the meaning of the present Act, as of March 1, 1968, when the property came under national administration.

The Commission has held in a number of decisions in the present claims program that the Government of Czechoslovakia's placement of property under national administration pursuant to Law No. 5/1945 Sb. constituted a nationalization or other taking of that property, within the meaning of the claims statute, and has granted awards for the property losses resulting from such actions. In the typical case, however, the authorities' action was carried out without prior consultation with the property owner, whereas in the present claim the housing authorities'

decision specifically states that the property was being placed under national administration in compliance with a request made by the co-owner and manager Arnost Weisz because of his advanced age and sickness. Moreover, the decision states that only the right to oversee repairs to the property and to collect rent payments would be transferred to the State-appointed administrator as a result of this action. The co-owners' remaining rights--e.g., to receive profits realized from the rental of the property, to reside in or to sell the property, if they chose to do so, and so forth--do not appear to have been restricted or otherwise affected by the authorities' action.

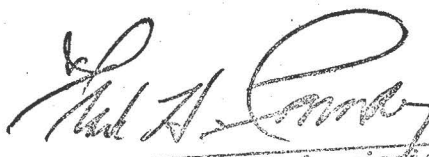
The points discussed in the foregoing were brought to the attention of counsel in a letter from the Commission staff dated March 2, 1983. However, in the time which has elapsed since that letter was written, no further evidence, argument or citation of legal authorities to support the theory of the claim has been submitted in response to this letter.

On the basis of the preceding discussion, and in the absence of further submissions from the claimant, the Commission concludes that the record in this claim is insufficient to support a finding that the property interest involved in the claim has been subjected to action amounting to a nationalization or other taking by the Government of Czechoslovakia during the period of August 8, 1958, to February 2, 1982, covered by the present Act. Accordingly, the claim must be and it is hereby denied.

The Commission finds it unnecessary to make determinations with respect to other aspects of this claim.

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

APR 26 1984


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.

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.)

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