

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

IN THE MATTER OF THE CLAIM OF

WILLIAM A. YERABEK

Claim No. V-0167

Decision No. V-0257

PROPOSED DECISION

This claim in the amount of \$20,000.00 against the Government of the Socialist Republic of Vietnam under Title VII of the International Claims Settlement Act of 1949, as amended by Public Law 96-606 (94 Stat. 3534), is based upon the loss of improved real property located at 201/75 Duong Vo Thanh Noi, Dai Gia Dinh in Vietnam.

Claimant, WILLIAM A. YERABEK, acquired United States nationality by birth in the State of Washington on April 9, 1943.

Under section 703 of the Act, above, 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 amounts of claims by nationals of the United States against Vietnam arising on or after April 29, 1975, for losses incurred as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property which, at the time of such nationalization, expropriation, or other taking, was owned wholly or partially, directly or indirectly, by nationals of the United States to whom no restoration or adequate compensation for such property has been made."

The claimant has submitted evidence, including a copy of a "Land Title Deed" dated December 15, 1972, an extract from the land records for the province of Gia Dinh dated December 20, 1972, which refers to land identified as lot numbers 556, 558 and 560 in Gia Dinh recorded in the name of claimant's wife, Nguyen Thi Chin, a Vietnamese national, and a building permit dated January 23, 1973, also issued in the name of claimant's wife.

In addition, claimant has submitted a bank account passbook for a savings account in a U.S. bank which shows withdrawals of \$11,318.65 in December of 1972, \$3,508.88 in March of 1973, \$1,000.00 and \$1,000.00 in May and June of 1973 and \$500.00 in August of 1973 for a total of \$17,327.53, which he states was used, with \$2,674 out of his regular pay, to buy the land and build the house in question.

The Commission has reviewed the laws which applied to real property ownership in Vietnam prior to April 29, 1975 and notes that the ownership of certain types of property, including real property, by aliens in Vietnam was restricted by the Law No. 6/60 of November 26, 1960. The Commission finds that, due to the unusual circumstances in Vietnam during the war in that country and the unique character of the American presence during that time, the inability to record title to real property in the name of a United States citizen without undertaking elaborate steps should not act as a bar to compensation for the claimant's interest in property which was nationalized or otherwise taken by the Government of Vietnam. To hold otherwise, would be to allow a wrong under international law to go without a remedy, which is inconsistent with the purposes of Public Law 96-606. In this regard, the Commission reaffirms its holding in prior claims programs that under normal circumstances where there are no restrictions under local law with respect to recording title to real property in the name of an American citizen such recordation generally will be conclusive in determining the ownership interest of a claimant in real property.

Based upon the foregoing, the Commission concludes that claimant WILLIAM A. YERABEK, was the sole owner of the real property on which this claim is based on the date of taking by the Government of Vietnam.

With respect to the question of the date on which the claimant's real property interest was nationalized or otherwise taken by the Government of Vietnam, the Commission finds, based

upon a review of the laws and history of the military occupation of the Republic of South Vietnam by North Vietnamese forces, that the property on which this claim is based was nationalized or otherwise taken by the Socialist Republic of Vietnam on or about May 1, 1975. Accordingly, the Commission finds that claimant WILLIAM A. YERABEK is entitled to compensation for the loss of his interest in the real property on which this claim is based.

In determining the value of the property in question, the Commission has considered all the evidence of record, including evidence of the actual sums of money used to pay for the construction of the property, the purchase price of the land and photographs of the improvements. Based upon all the evidence, the Commission concludes that the claimant's estimate of the value of the real property, consisting of 240 square meters of land, a four bedroom, air conditioned house, with two full baths, a living room, kitchen and family room as well as an upstairs patio, stone wall on three sides of the property and iron driveway gates, is fair and reasonable, and that accordingly, claimant, WILLIAM A. YERABEK is entitled to compensation under section 703 of the Act, above, in the amount of \$20,000.00 for the loss of his interest in the property.

The Commission has concluded that in granting awards on claims under section 703 of Title VII of the Act, for the nationalization, expropriation or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to the date of settlement. (See Claim of BETTY JANET MITCHELL, Claim No. V-0358, Decision No. V-0259 (1984)).

The Commission notes that claimant stated at the time of filing this claim that he had received reimbursement from the Navy for personal property lost in Vietnam. Since section 703 of the Act, above, provides that only losses by nationals of the United States "to whom no restoration or adequate compensation for such property has been made" are eligible for an award, the

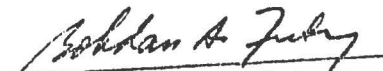
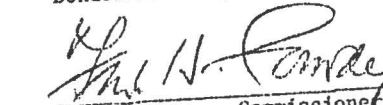
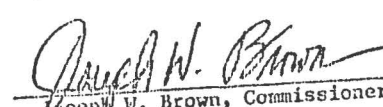
Commission concludes that no award would be granted for the loss of personal property which might have been the subject of this claim.

A W A R D

Claimant, WILLIAM A. YERABEK, is entitled to an award in the principal amount of Twenty Thousand Dollars (\$20,000.00) plus interest thereon at the rate of 6% simple interest per annum from May 1, 1975 to the date of settlement.

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

MAR 29 1985


Bohdan A. Futey, Chairman

Frank H. Conway, Commissioner

Joseph W. Brown, Commissioner

This decision was entered as the Commission's
Final Decision on MAY 14 1985

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.)