

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

IN THE MATTER OF THE CLAIM OF

SARKIS K. AYOOB

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0558

Decision No. CU

1989

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$28,600.00 was presented by SARKIS K. AYOOB based upon the asserted loss of the improved real property at 6505-6507 Calle 126 in Marianao, Cuba, and loss of rental income therefrom. Claimant has been a national of the United States since his naturalization on January 17, 1958.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 503(a) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and

debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Real property tax notices for the first quarter of the fiscal year of 1960-1961, issued by the Municipality of Marianao, Cuba, and affidavit of Cecilio Milton, claimant's former neighbor in Marianao, show and the Commission finds that claimant, SARKIS K. AYOUB, owned the improved real property at 6505-6507 Calle 126 in Marianao, Cuba, in October 1960.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). The law further provided that if a tenant did not occupy the property, or had subleased or transferred its use to another, the property could be sold to the occupant; and further, that an occupant, whether a tenant or subtenant, or not, could purchase the property in the manner outlined (Article 9). Article 21 of the law provided that present owners of urban buildings sold under the law should receive the assigned price; however, under Article 25 ownership of so-called tenement houses would be transferred to the State without compensation to the erstwhile owners. Moreover, Article 30 provided that if urban buildings transferred under the law were mortgaged, execution of the contract of sale should have the effect of cancelling the mortgage. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Claimant states that in October 1960 he was advised by Cecilio Milton, his neighbor and agent in Marianao that his property in question was taken over by the Government of Cuba.

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in question, was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette.

Accordingly, the Commission concludes that claimant suffered a loss of his real property within the meaning of Title V of the Act.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

Claimant valued the real property at 6505-6507 Calle 126 in Marianao at \$16,000.00. Claimant stated that he purchased the property in two portions: The first portion in 1942 for 5,000 pesos and the second portion in 1948 for 4,000 pesos. Evidence of record shows that land parcel No. 6505 is improved by a store-room with three dwelling rooms and a three-room apartment. The improvements of land parcel No. 6507 consist of two connected buildings having a total of seven rooms.

It further appears that the property yielded a gross rental income of about 2,000 pesos per annum and its taxes amounted to about 260 pesos per annum.

Based upon the entire record, the Commission finds that the real property at 6505-6507 Calle 126 in Marianao had a total value of \$15,000.00 on October 14, 1960, the date of loss, and concludes that claimant sustained a loss in such amount within the meaning of Article V of the Act, as a result of the taking of his realty by the Government of Cuba on October 14, 1960.

The remaining portion of the claim based upon loss of rental income from the real property in question during the period 1961-1965 is denied

inasmuch as the property belonged to the Republic of Cuba after October 14, 1960, rather than to the claimant. However, the Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 14, 1960, to the date on which the provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that SARKIS K. AYOUB sustained a loss, as a result of an action of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifteen Thousand Dollars (\$15,000.00) with interest thereon at 6% per annum from the date of taking to the date of settlement.

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

JUN 19 1968

Leonard v. B. Sullen

Leonard v. B. Sullen, 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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The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.