

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

IN THE MATTER OF THE CLAIM OF

AURORA CAMPO JIMENEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2360

Decision No. CU 4663

Counsel for claimant:

Bernadette Dolan
Attorney at Law

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by AURORA CAMPO JIMENEZ for \$17,000.00 based upon the asserted ownership and loss of certain interests in real properties in Cuba. Claimant has been a national of the United States since her naturalization in 1953.

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 502(3) 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.

Claimant describes her loss as follows:

A 1/5 interest in a three-story brick and concrete building comprising four apartments and two stores at 408 Prado Street, Guantanamo City, Oriente, Cuba.

Based upon the entire record, including an affidavit of the architect who constructed the building, three affidavits of individuals who state they have personal knowledge of the facts, and a copy of a declaration prepared by claimant and her husband, Antonio Jimenez Mercader, on August 22, 1955, the Commission finds that claimant owned a 1/5 interest in the improved realty in question.

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). Moreover, Article 30 provided for the cancellation of mortgages. 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.

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in Guantanamo City, Cuba 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 Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

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.

The record includes, in support of the claimed values, two blueprints of the building prepared by the architect and his affidavit in which he states that the building measured about 60 feet by 55 feet, that the construction of the building cost about \$65,000.00 and that the asserted value of \$20,000.00 for the land was the actual cost. This valuation is supported by several other affidavits and that of claimant who states that the asserted values for the land and construction of the building were the actual costs in 1954 to her mother from whom she acquired her interest, and that the monthly rentals of the four apartments were \$60.00 each, and that of the two stores were \$100.00 each.

On the basis of the evidence of record, the Commission finds that on October 14, 1960, the date of loss, the property in question including the land had the aggregate value of \$85,000.00, and that claimant's 1/5 interest therein had the value of \$17,000.00.

Accordingly, the Commission concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of her property by the Government of Cuba on October 14, 1960.

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), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

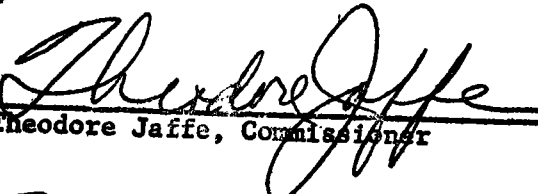
The Commission certifies that AURORA CAMPO JIMENEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Seventeen Thousand Dollars (\$17,000.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

MAR 25 1970



Lyle S. Garlock, Chairman



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

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.

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).)