

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

IN THE MATTER OF THE CLAIM OF

ALICE PELAEZ MENA

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-2387

Decision No. CU- 6056

Counsel for claimant:

Herbert J. A. Runsdorf, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amended amount of \$137,495.00, was presented by ALICE PELAEZ MENA and is based upon the asserted loss of an apartment house, a vacant lot and certain personalty. Claimant has been a national of the United States since birth.

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 has asserted losses as follows:

Apartment house	\$ 95,000.00
Unimproved lot	10,000.00
Personalty	<u>32,495.00</u>
	\$137,495.00

Apartment House

The evidence establishes and the Commission finds that claimant owned all the outstanding stock of Inmobiliaria Alipe, S.A., a Cuban holding company for an apartment house at 3612 - 39th Avenue, Almendares, Marianao, Havana, Cuba.

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 were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15).

Based on the foregoing and the evidence of record, the Commission finds that claimant's improved real property in Almendares 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 question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The evidence includes a description of the Almendares property as a 4-story, 16-apartment house on a lot of 329 square meters, as well as correspondence showing the gross rents of the apartment, built in 1956, at not more than \$60.00 an apartment with some exceptions.

On the basis of the entire record, the Commission finds that the apartment house and the land on which it was situated had a value of \$78,120.00 on the date of loss, and that claimant suffered a loss in that amount.

#### Varadero Lot

The record also establishes that claimant held title to an unimproved lot, No. 3 of Block 6, Playa de la Torre, Varadero, Cardenas.

On December 6, 1961, the Cuban Government published its Law 989 which effected confiscation of all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who left the country.

The Commission finds, in the absence of evidence to the contrary, that this unimproved real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The record includes a description of the property as consisting of 870 square meters with a declared value, in 1957, of \$11.49 per square meter.

On the basis of this record the Commission finds that at the time of loss the Varadero lot had a value of \$10,000.00 and that claimant suffered a loss in that amount.

Personalty

Claimant has submitted detailed lists of personal property used at her home at 2219 - 9th Avenue, La Sierra, until her brother left in 1961.

The Commission finds that claimant was the owner of extensive household furnishings, and an automobile, and that these were also taken by the Government of Cuba on December 6, 1961 pursuant to Law 989, supra.

Claimant has described the personalty, giving the date of purchase, cost and depreciated value at time of loss. On the basis of this record, and considering evidence as to the value of similar properties, the Commission finds that \$30,195.00 is the fair and reasonable value of the furnishings. Based on a guide issued by the National Automobile Dealers Association, the Commission finds that the automobile had a value of \$515.00 on the date of loss. Accordingly, the Commission finds that claimant suffered a loss of \$30,710.00 with respect to the personalty.

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, as follows:

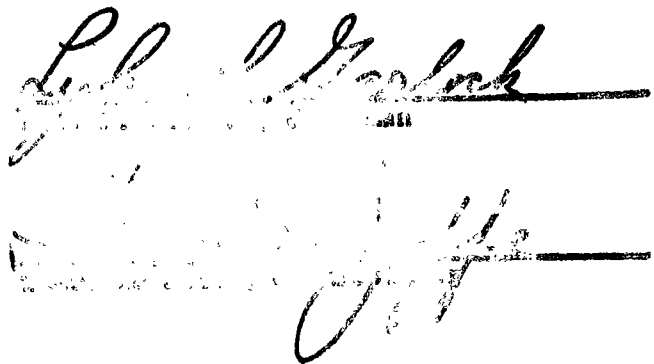
<u>FROM</u>	<u>ON</u>
October 14, 1960	\$ 78,120.00
December 6, 1961	<u>40,710.00</u>
	\$118,830.00

CERTIFICATION OF LOSS

The Commission certifies that ALICE PELAEZ MENA 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 One Hundred Eighteen Thousand Eight Hundred Thirty Dollars (\$118,830.00) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

**FEB 3 1971**



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 (1970).)