FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

JAN GLOWACKI

Claim No. PO-3455

Decision No. PO- 1636

Under the Polish Claims Agreement of 1960 and the International Claims Settlement Act of 1949, as amended

PROPOSED DECISION

This claim, for the amount of $25,000.00, is based upon ownership and loss of the improved real property at 16 Kujawska Street in Wloclawek, voivodeship Bydgoszcz, Poland. Claimant, JAN GLOWACKI, has been a national of the United States since his birth in the United States on August 29, 1904.

Under Section 4(a) of the International Claims Settlement Act of 1949, as amended, (64 Stat. 13 (1950), 22 U.S.C. § 1623 (1958)), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Polish Claims Agreement of 1960 (Agreement with the Government of the Polish People's Republic Regarding Claims of Nationals of the United States, July 16, 1960, 11 U.S.T. & O.I.A. 1953, T.I.A.S. No. 4545 (1960)). Article 2 of that Agreement provides as follows:

> "Claims to which reference is made in Article 1 and which are settled and discharged by this Agreement are claims of nationals of the United States for
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> (a) the nationalization or other taking by Poland of property and of rights and interests in and with respect to property;

(b) the appropriation or the loss of use or enjoyment of property under Polish laws, decrees or other measures limiting or restricting rights and interests in and with respect to property . . .; and

(c) debts owed by enterprises which have been nationalized or taken by Poland and debts which were a charge upon property which has been nationalized, appropriated or otherwise taken by Poland."

The Agreement further defines "claims of nationals of the United States" as including

"rights and interests in and with respect to property nationalized, appropriated or otherwise taken by Poland which, from the date of such nationalization, appropriation or other taking to . . . [July 16, 1960], have been continuously owned . . . (a) directly by natural persons who were nationals of the United States . . ." (Polish Claims Agreement of 1960, supra, at Annex, Paragraph A. See also 14 FCSC Semiann. Rep. 186 (Jan. - June 1960)).

A certificate, issued by the County Court for the City of Wloclawek on October 17, 1961, shows that title to the property, a rented apartment house, at 16 Kujawska Street, recorded in land register liber 2324 of Wloclawek as lot No. 998, voivodeship Bydgoszcz, Poland, is still in claimant's name. There is nothing in the record to establish that the property has been nationalized by the Government of Poland. Consequently, it must be determined whether or not the use or enjoyment of the property was appropriated or lost under Polish laws, decrees or other measures limiting or restricting rights and interests in and with respect to property. (Polish Claims Agreement of 1960, supra, Article 2(b).)

A study of the pertinent Polish statutes and governmental actions shows the facts as follows:

World War II was not yet over when the provisional government of Poland first regulated the relationship

between landlord and tenant. Rents were frozen at the level of September 1, 1939, housing commissions were established to control the occupation of available dwelling space, permit the increase of rent in proportion to the investment made by the owner, and regulate other matters of housing. This regulation by the provisional government was replaced by a more comprehensive statute on distribution of dwelling space and rent control, dated December 21, 1945.

Under this decree the owner had no right to select his tenant. Apartments, as well as office space, could be occupied only pursuant to an assignment issued by the Housing Authority. The Housing Authority was empowered to order the partitioning of an apartment larger than three rooms into two or more separate apartments; if the owner failed to comply with such order within a specified period of time, the Housing Authority performed the remodeling at the owner's expense and placed a mortgage upon the property to secure the repayment of the cost expended.

Effective as of September 1, 1948, the monthly rent was increased to 80 - 120 zlotys per sq. meters of dwelling space. The new, increased rent, however, did not apply and the rent remained as it was on September 1, 1939, if the tenant was a state or municipal employee, person working for wages, scientist, educator, artist, writer, journalist, pensioner living on government or municipal retirement, social security or public welfare, or was unemployed.

The new regulations allowing an increase in rents, however, afforded no real benefit to the owner because of provisions which compelled him to contribute a substantial portion of his income to the Housing Control Fund, invest a certain percentage in maintenance and repairs of his premises and of course the payment of a real property tax. After meeting his obligations in this respect the owner was left with a very small percentage of the rental income.

Some of the Polish statutes affecting the rights of owners of improved real property appear to have been temporary measures to guide the country through a period of readjustment following World War II. Others were more permanent in nature. The statutes were amended time and again. The incidents of ownership of property in Poland were not lost abruptly as was the case in Czechoslovakia. Rather, there were a series of statutes enacted over a long period of time, each one attempting to cover a new area or reinforcing an old one. Accordingly, it cannot be said with any degree of certainty that there was a loss of use or enjoyment of property in Poland at one particular time. And yet the restrictions imposed upon the owners of rental apartment houses constituted a gradual but nonetheless a complete destruction of the incidents of ownership.

In view of these circumstances, the Commission concludes that the Law of January 30, 1959 (DZ. U. 1959, No. 10, it. 59), appears to represent the culmination of many years of effort to control initially, and ultimately to appropriate, certain rented premises. By that time all effective measures in

these respects with few, if any, exceptions had been put into effect. Consequently, in the absence of evidence to the contrary, it is found that the loss of use and enjoyment of the improved real property at 16 Kujawska Street in Wloclawek, which was a rental premises within the purview of the Law of January 30, 1959, occurred on February 12, 1959, the effective date of the law.

On the basis of evidence of record, namely the appraisal made by Lucian Jezierski, an architect and resident of Wloclawek, a photograph, and information furnished by the claimant concerning the cost of construction and the pre-World War II market value of the property, the Commission finds that on February 12, 1959, the date of loss, the property at 16 Kujawska Street had a value of $2,600. The Commission concludes that claimant is entitled to compensation under the Polish Claims Agreement of 1960.

The Commission has decided that in granting awards on claims under the Polish Claims Agreement of 1960, interest shall be allowed at the rate of 6% per annum from the date of loss to July 16, 1960, the effective date of the Agreement. (See the Claim of JOHN HEDIO PROACH, Claim No. PO-3197.) Accordingly, the amount of the award will be increased to that extent.

A W A R D

An award is hereby made to JAN GLOWACKI in the principal amount of Two Thousand Six Hundred Dollars ($2,600.00), with interest thereon at 6% per annum

from February 12, 1959 to July 16, 1960, the date of the Polish Claims Agreement, in the sum of Two Hundred Twenty-two Dollars and Seventy-four Cents ($222.74).

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

OCT 2 1963

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections to this Proposed Decision are filed within 20 days of service thereof, the decision will, upon the expiration of 60 days after such service or receipt of notice, be entered as the Final Decision of the Commission unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. § 531.5(e) and (g) (1961).)