

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

IN THE MATTER OF THE CLAIM OF

GERTRUD ELSA EBERSBACH
ALFRED HERBERT EBERSBACH

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-2713

Decision No. G-2449

PROPOSED DECISION

This claim in the amount of \$4,044.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of a two-story house located at Breitscheidstrasse 59 in Lichtentanne, near Zwickau.

The record indicates that claimant, GERTRUD ELSA EBERSBACH, became a United States citizen on December 6, 1944, and that claimant, ALFRED HERBERT EBERSBACH, has been a United States citizen since his birth on August 9, 1937.

Under section 602, Title VI of the Act the Commission is given jurisdiction as follows:

"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 the German Democratic Republic for losses arising as a result of the nationalization, expropriation, 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 whether such losses occurred in the German Democratic Republic or in East Berlin. . ."

The record establishes that Alfred O. Ebersbach, the husband of GERTRUD ELSA EBERSBACH and father of ALFRED HERBERT EBERSBACH, was the registered owner of the subject property until his death on June 16, 1955. Alfred O. Ebersbach, who acquired United States citizenship on January 28, 1930, left a will designating

his wife and claimant herein, GERTRUD ELSA EBERSBACH, as his sole successor in interest. Thus, claimant ALFRED HERBERT EBERSBACH did not acquire any interest in the subject property. His part of this claim, therefore, must be and hereby is denied.

The record includes a letter from an East German attorney, Dr. Richard Beyer, dated October 26, 1964, advising claimant, GERTRUD ELSA EBERSBACH, that the Government of the German Democratic Republic assumed administration of the subject property in 1952 pursuant to the "Decree on the Administration and Protection of Foreign Property in the German Democratic Republic," of September 6, 1951. The Commission has held that implementation of the provisions of that decree constitutes a taking as defined by section 602 of the Act, which, absent more specific evidence, will be considered to have occurred on August 11, 1952, the date of the first implementing regulation. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100.)

In determining the value of the house and land at Breitscheidstrasse 59 in Lichtentanne, the Commission has considered such evidence as the construction cost of the house, the Einheitswert (tax assessment value) of the property, and various photographs of the premises. The record indicates that the house was built in the late 1930's and there is no evidence that it sustained any damage during World War II. The record also indicates that a RM 9,300 mortgage was registered against the property in 1938, which had not been paid off at the time of taking in 1952. Based upon the entire record, the Commission determines that the subject property had an equitable value of \$8,000.00 at the time of taking in 1952. Claimant, GERTRUD ELSA EBERSBACH, is therefore entitled to an award in that amount for its loss.

The aforementioned 1964 letter from the East German attorney, Dr. Richard Beyer, indicates that GERTRUD ELSA EBERSBACH also had an account at an unspecified bank, the balance of which as of December 31, 1952 was 1,862.15 ostmarks. No further information is contained in that letter or elsewhere in the record as to what

became of this account after that date. The Commission holds that this bank account also came under the purview of the "Decree on the Administration and Protection of Foreign Property in the German Democratic Republic of September 6, 1951" and that the account was taken on or about December 31, 1952. The Commission has held in the Claim of OLGA LOEFFLER, Claim No. G-0056, Decision No. G-0221, that, in determining an award, 4.2 ostmarks equalled one dollar in 1952. Therefore, the Commission determines that claimant, GERTRUD ELSA EBERSBACH, is entitled to an award of \$443.37 for the loss of the subject account.

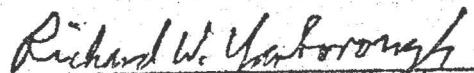
The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).

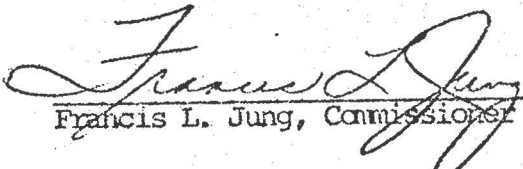
A W A R D

Claimant, GERTRUD ELSA EBERSBACH, is therefore entitled to an award in the total amount of Eight Thousand Four Hundred Forty-Three Dollars and Thirty-Seven Cents (\$8,443.37), plus interest at the rate of 6% simple interest per annum, on Eight Thousand Dollars (\$8,000.00) from August 11, 1952 and on Four Hundred Forty-Three Dollars and Thirty-Seven Cents (\$443.37) from December 31, 1952, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

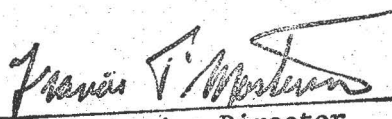
Dated at Washington, D.C.
and entered as the Proposed
Decision of the Commission.

AUG 6 1980


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on SEP 10 1980


Executive Director

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.)