

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

IN THE MATTER OF THE CLAIM OF

FREDRICK CARL SCHLEUSING
HELLA LEONIE WETZEL

Claim No. G-3881
G-3882

Decision No. G-2335

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objection from a Proposed Decision entered on June 18, 1980. No Oral Hearing Requested.

Hearing on the Record held on March 4, 1981

FINAL DECISION

These claims in the aggregate amount of \$179,000.00 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), are based upon the loss of a house and land at Lutherstrasse 1/3 in Berlin-Hessenwinkel, personal property located within the house, and rental income for the years 1953-1979.

By Proposed Decision issued on June 18, 1980, the Commission denied both of these claims on the grounds that the period for the filing of claims under the statute closed on May 16, 1978 and that the subject claims were not filed until October 1979. The Commission further held that if the claims had been timely filed the claimants would have been entitled to share in an award of \$15,000.00 for the loss of property at Lutherstrasse 1/3 in Berlin-Hessenwinkel.

Claimant FREDRICK CARL SCHLEUSING objected to the Proposed Decision on the grounds that the filing deadline under the circumstances should not be applicable to him and that the property had a higher value than found by the Commission.

The Commission has further reviewed the file as well as other statutes of the United States. The Commission finds that at all times from the commencement of the filing period until the date of filing of his claim, FREDRICK CARL SCHLEUSING was a member of the armed forces in the United States and is entitled to the benefits of the Soldiers and Sailors Civil Relief Act of 1940, (54 Stat. 1178) as amended by (56 Stat. 770), Title 50 U.S.C.A., App. 501-590 and in particular Section 525 which states in relevant part:

"The period in military service shall not be included in computing any period now or here after to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court, board, bureau, Commission, department, or other agency of government by or against any person in military service. . ."

The history of this legislation, which was originally passed in 1940, indicates that by amendment of October 6, 1942 the above cited section was broadened to include proceedings before boards, bureaus, commissions, departments or other agencies of government and the statute by its terms appears clearly to apply to the instant case so that the claim filed by claimant FREDERICK CARL SCHLEUSING is, in fact, timely filed.

Claimant, HELLA LEONIE WETZEL, who filed claim G-3882, does not appear, however, to be a member of the United States armed forces and therefore is not entitled to have a period of military service included in computing the time for filing a claim. Therefore, the Commission must affirm its denial of her claim.

The Commission has further considered the contention of claimant that the value of the property as found by the Commission is unreasonably low. Claimant has submitted no additional evidence concerning value, however, by way of objection states "The established purchase price of the property and the scarcity of housing after the massive destruction of World War II would indicate a much higher value."

The Commission has considered the statement of claimant that the property was purchased on October 31, 1919 for 50,000 marks. However, this occurred during the period of rampant inflation in Germany when the mark was greatly deflated in value. During 1919 the mark had an average value of 15.58 marks to the dollar. Therefore, a purchase price equivalent to \$3,200 in 1919 does not, in and of itself, demonstrate that the Commission's valuation is too low.

The Commission has reviewed all the evidence pertaining to value in the record. This includes a detailed appraisal made in 1926 by an expert appraiser which indicated that the property consisted of a single family dwelling with six rooms in addition to a kitchen, bath and hall, with a total floor space of approximately 1600 square feet. An estimate of gross rental of 18,000 marks per year was made. Two photographs of the house have been submitted and examined by the Commission. The house was located on a double lot totalling 2,239 square meters. A 1938 estimate of relative values for land in Berlin gives a value for this particular area of 3 to 6 marks per square meter. The house has a cubature of approximately 430 cubic meters and assuming the very highest quality of construction would have cost 9,500 marks to construct in 1913 according to the official German building index. Applying the index of increase in building cost applicable to West Germany, the construction cost in 1953 would have approximated 28,000 marks, the equivalent of \$6,750.00.

Therefore in reviewing all the evidence in the record concerning value, whether the Commission looks at actual construction cost or capitalized rental income, the Commission is hard pressed to justify as high a value as it originally found for the property, even considering the large size of the lot, hypothetical increases in value of property after World War II and the assertion that there was an additional detached stable or garage with a small apartment located on the premises. However, the Commission does note that the claimants submitted an actual inventory of furniture which was in the house in 1946, and although there is no specific evidence as to its actual value, it is reasonable to assume that some if not all this furniture remained in the house at the time it was put under Public Administration by the German Democratic Republic and that it had at least a minimum value. Therefore, the Commission has decided it will not lower the overall valuation of \$15,000.00 for the land, building and furnishings.

As claimant is entitled to an award for a half interest in the property, the Commission will make an award to claimant in the amount of \$7,500.00.

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)).

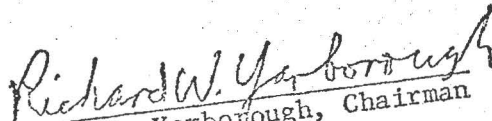
Therefore, the Commission makes the following award as a final determination of these claims.

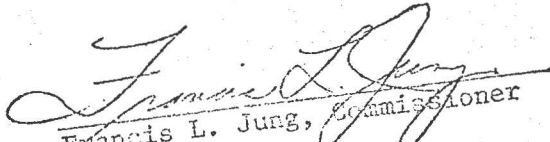
A W A R D

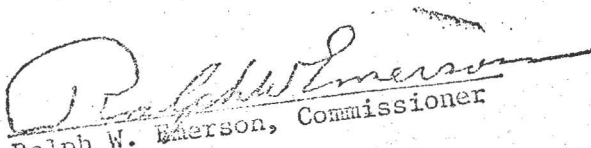
Claimant, FREDRICK CARL SCHLEUSING, is therefore entitled to an award in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00), plus interest at the rate of 6% simple interest per annum from January 1, 1953 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

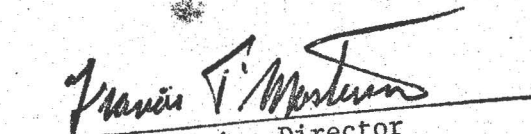
MAR 4 1981


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner


Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAR 4 1981


Executive Director

G-3881
G-3882

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IN THE MATTER OF THE CLAIM OF

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PROPOSED DECISION

These claims in the aggregate amount of \$179,000.00 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), are based upon the loss of a house and land at Lutherstrasse 1/3 in Berlin-Hessenwinkel, personal property located within the house, and rental income for the years 1953-1979.

The record indicates that claimant FREDRICK CARL SCHLEUSING was born a United States citizen on April 8, 1929, and that claimant HELLA LEONIE WETZEL acquired United States citizenship derivatively through her father on December 19, 1931. The record also indicates that the claimants' parents, Carl August Schleusing and Leonie Schleusing, became United States citizens on December 19, 1931 and February 28, 1933, respectively. Carl August Schleusing, who died in March 1953, left his entire estate to Leonie Schleusing. The claimants, in turn, are the successors in interest to Leonie Schleusing, who died on October 30, 1973.

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. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later." (Emphasis added.)

The period for the filing of claims under the statute commenced on May 16, 1977 and closed twelve months later on May 16, 1978. Thus, the filing period extended for the maximum time--twelve months--allowed under Public Law 94-542. The subject claims, however, were dated October 5, 1979 and October 4, 1979, respectively, and received at the Commission on October 11, 1979. Since the one year filing period provided under the statute had already expired, these claims were not timely filed. Under Public Law 94-542, therefore, the Commission is not authorized to grant an award.

Based upon the evidence of record, the Commission finds that these claims would have been compensable in part if they had been timely filed. The record establishes that the claimants' father and predecessor in interest, Carl August Schleusing, acquired the house and land at Lutherstrasse 1/3 in Berlin-Hessenwinkel in 1919. Based upon all the evidence, the Commission finds that the subject premises were taken by the German Democratic Republic around 1953. The Commission also determines that the house and land had a value of \$15,000.00 at the time of taking. The claimants would therefore have been entitled to share in an award of \$15,000.00 if these claims had been timely filed. Since the claims did not meet the filing deadline, however, the Commission is not authorized under Public Law 94-542 to grant an award. Therefore, the claims for the house and land involved herein must be denied.

These claims are based in part upon the loss of various items of personal property located in the house. The record includes an inventory of these items, dated May 1, 1946, which the claimants assert was prepared by their parents shortly before their departure from Germany for the United States. The record contains no additional evidence with regard to this personal

property. The claimants have indicated that the house and land on Lutherstrasse were privately administered by friends of the family from 1946 to 1953, at which time the premises were taken over by the German Democratic Republic. No evidence has been submitted to show what became of the personal property during the years of private administration or at the time the real property was taken by the German Democratic Republic. The Commission finds that the record is insufficient to establish which, if any, of the items of personalty purportedly owned by the claimants' parents in 1946 were taken by governmental authorities of the German Democratic Republic in 1953. Therefore, even if these claims had been timely filed, the part based upon the loss of personal property would have to be denied.

Claim is also made for the loss of rental income from the time of taking in 1953 until the date these claims were filed in 1979. The Commission finds, however, that the claimants would have no ownership interest in any rental payments during these years since the German Democratic Republic had already taken the subject real property. In accordance with its ruling in the Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100, the Commission would have allowed the claimants interest on an award for the loss of the real property involved herein at the rate of 6% per annum from the date of loss to the date of a claims settlement agreement between the Governments of the United States and the German Democratic Republic. Since these claims were not timely filed and no awards can be granted for the loss of the subject real property, however, neither can any interest be allowed from the date of taking.

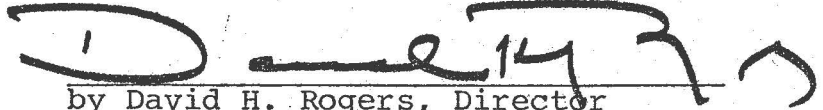
For the above cited reasons, these claims must be and hereby are denied in their entirety.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

JUN 18 1980

For Presentation to the Commission



by David H. Rogers, Director
German Democratic Republic Claims
Division

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.)

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