

## **Deadline Looms for Filing East German Compensation Claims**

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As East and West Germany rush towards reunification on Oct. 3, a little known result of the changes sweeping through Germany is the possibility to file compensation claims for expropriated assets in East Germany in compliance with the "Joint Statement of the Governments of the Federal Republic of Germany and the German Democratic Republic Regarding the Settlement of Unresolved Property issues" of June 15, 1990. The German Democratic Republic (East Germany) has issued regulations on the filing of compensation claims for expropriated assets. The regulations, entitled "Regulations on the Filing of Claims,"<sup>1</sup> issued on July 11, 1990, and amended on Aug. 21, 1990, require that certain claims for compensation be filed between July 15, 1990 and Oct. 13, 1990.<sup>2</sup> According to the regulations, any party whose property in East Germany was confiscated, expropriated held in trust or taken by illicit means is entitled to file a claim for such property.<sup>3</sup> The regulations do not apply to property which was expropriated based on the legal or sovereign acts of the occupying powers between May 8, 1945, and Oct. 6, 1949, to claims of foreigners whose countries have entered into international agreements with regard to East German claims (e.g. Finland, Austria, Sweden and Denmark),<sup>4</sup> and to Jewish claims between 1933 and May 1945. Separate regulations with respect to Jewish claims against East Germany will be enacted after reunification on Oct. 3. The legal aspects of claims which arose during the May 8, 1945 to Oct. 6, 1949 period are still under discussion however it is advisable to file claims which arose during this time period prior to the Oct. 13 deadline in order to give notice of the claim. The East German statute permits the following kinds of property claims to be filed:

1. Real estate or rights to real estate (e.g. rights of use, mortgages, rental income).
2. Movable items (e.g. art. antiques, household items),
3. Credit balances and claims against debtors residing in East Germany (with the exception of participation rights in bonds issued by the German Democratic Republic as a substitute for old credit balances).
4. Businesses and their asset. (provided they are located in East Germany or East Berlin).<sup>5</sup>

The filing regulations contemplate in principle, either the retransfer of assets or the payment of monetary compensation, as requested by the entitled party. Retransfer is excluded if the property has been dedicated to public use or has been used for the construction of apartments and housing complexes. Retransfer is also excluded in the case where natural persons, or religious or nonprofit organizations have in good faith acquired ownership rights or rights to use the property prior to Oct. 18, 1989.

In particular, the new regulations prohibit the transfer of real property until a final determination has been made that there are no unresolved issues regarding the title to the real property.<sup>6</sup> Unresolved issues are deemed to exist if, after Oct. 6, 1949, real property was transferred to the East German government by expropriation through state administration, or state trust administration or if sold to third parties, or if claims have been filed.<sup>7</sup>

Objections to real estate ownership should be filed in the Land Title Registry in the county where the land is situated. Objections will automatically be approved to be registered for sales

to private purchasers after Oct. 18, 1989, and in all cases, where the present owner does not object to registration of the objection.<sup>8</sup> In addition to filing an objection in the appropriate land-registry, the claimant must additionally file its real estate claim in the same manner as all other permitted claims. Compensation claims must be filed in a written form at the county office at the county (Landkreis), or if in a city to the city office (Stadtkreis), in which the entitled party last resided.<sup>9</sup> If the claiming party does not reside in East Germany, the claim must be filed in the county office or city office where the property is located.<sup>10</sup> The filing should include information about the type and scope of the property, the place where it was last located, the person making the filing and an explanation as to the claimant's right to the property.<sup>11</sup>

Claims must be filed between July 15, 1990 and Oct 13, 1990. Claims filed prior or subsequent to those dates will not be taken into consideration, except that in cases of late filings, the claim may be accepted if the claimant can prove that he missed the filing deadline through no fault of his own and later learning of the filing deadline, he requests the right to file without undue delay.<sup>12</sup> However, procrastination is not advised since there is no guarantee that late claims will be accepted.

Claims may also be filed by a third person (i.e. relative, or attorney) by providing such third person with a power of attorney authorizing him to make the filing on the claimant's behalf.<sup>13</sup> It is recommended that the power of attorney be certified by a notary where the claims relate to real estate. An official copy of the certified power of attorney must be submitted with the filing.

#### Footnotes

1. "Regulation on the Filing of Claims" Law Gazette of the German Democratic Republic, Part 1, no. 44, page 718, July 11, 1990.

2. "Second Regulation on the Filing of Claims" Law Gazette of the German Democratic Republic, Part 1, no.56, § 3, Aug. 21, 1990.

3. "Regulation on the Filing of Claims" supra, at § 2, par. 2.

4. Id. at § 1, par. 4.

5. Id. at § 1, par. 3.

6. Id. at § 6, par. 2.

7. Id.

8. Id. at § 7, par. 3.

9. Id. at § 2, par. 2.

10. Id.

11. Id. at § 4, par. 1.

12. "Second Regulation on the Filing of Claims" supra, at § 5.

13. "Regulation on the Filing of Claims" supra, at § 4, par. 1.

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