

involvement in food production and food markets has not yet been defined or documented.<sup>478</sup>

Another important change in policy has addressed private sector employment.<sup>479</sup> Individuals are now allowed to be self-employed.<sup>480</sup> Appropriate businesses include barber shops, restaurants, bicycle repair shops, and other businesses that cater to the Cuban people, not the tourists.<sup>481</sup> In addition, there is anticipation that joint ventures will be formed in the near future, if they have not already been organized, between the state and foreign capital entities that are dedicated to food production.<sup>482</sup>

In 1995, modifications in Cuba's property law continued, this time in the form of a new Foreign Investment Law<sup>483</sup> that allowed foreign ownership to extend beyond minority participation in a joint venture.<sup>484</sup> It extends to all foreign citizens, even native Cubans who have taken foreign citizenship, including Americans, although the blockade will make participation nearly impossible for those individuals.<sup>485</sup> For the first time in Cuban history, the legislation has also permitted assembly plants to use Cuban labor to attract capital and technology<sup>486</sup> within duty-free trade and industrial zones.<sup>487</sup> This will

478. *Id.*

479. *Id.* Article 45 of the Cuban Constitution states: "El trabajo en la sociedad Socialista es un derecho, un deber y un motivo de honor para cada ciudadano." 1992 CONSTITUTION art. 45. In translation Article 45 reads: "Work in the Socialist society is a right, a duty, and a source of pride for each citizen." *Id.*

480. Messina Presentation, *supra* note 11.

481. *Id.*

482. Article 23 of the Cuban Constitution recognizes property of mixed business ventures. 1992 CONSTITUTION art. 23.

483. Ley Para la Inversión Extranjera (Sept. 5, 1995) (Cuba) [hereinafter Foreign Investment Law] (on file with the Land Tenure Center Library, University of Wisconsin); *Parliament Head Alarcón Issues Warning on Helms-Burton Bill*, in BBC Summary of World Broadcasts, Sept. 8, 1995, available in LEXIS, News Library, Bbcwb File.

484. Davies, *supra* note 3, at 14. The law includes a measure to allow foreign investors to establish fully owned subsidiaries in Cuba without participation in such companies by Cuban state firms. See *Cuban Parliament Passes Controversial Investment Law Changes*, Deutsche Press-Agentur, Sept. 6, 1995, available in LEXIS, News Library, Wires File. Until this legislation, foreign companies could only own up to 49 percent of a Cuban company. *Id.*

485. *Parliament Head Alarcón Issues Warning on Helms-Burton Bill*, *supra* note 483; *Castro's Remarks*, *supra* note 472; *Cuban Parliament Passes Controversial Investment Law Changes*, *supra* note 484.

486. Farah, *Cuba*, *supra* note 415, at D1.

487. Foreign Investment Law arts. 50-53; Maribel Acosta & Julio Acanda, *Radio Outlines Main Points of Foreign Investment Law*, (radio broadcast, Cuban TV, Aug. 31, 1995), in BBC Summary of World Broadcasts, Sept. 5, 1995, available in LEXIS, News Library, Bbcwb File [hereinafter Acosta & Acanda Report].

be similar to the Mexican *maquiladora*<sup>488</sup> model used to manufacture for export.<sup>489</sup> However, strategic businesses, those connected with national security, defense, education, and public health, continue to have restricted ownership.<sup>490</sup> Yet even in these areas, foreign private investment in management systems will be allowed.<sup>491</sup>

Additional provisions of the new investment law will guarantee the right to repatriate profits.<sup>492</sup> Investors will have the freedom to purchase residential, office, or tourist properties.<sup>493</sup> Further, they will be able to sell their interests either to the government or to a third party, provided the investors obtain prior government authorization.<sup>494</sup>

As part of the legislative debate, Deputies Agustín Lage and Fernando Vecino requested that the law expressly prohibit Cubans living in other countries from participating in investments in Cuba.<sup>495</sup> Others argued that trying to exclude Cubans living abroad would be difficult and would aid those who portray Cuba as intolerant.<sup>496</sup> While the final draft allows for all to invest, an executive committee of the Council of Ministers along with a governmental commission still must approve proposals on a case-by-case basis.<sup>497</sup> Further, foreign

488. A *maquiladora* is typically a manufacturing plant along the U.S.-Mexico border, where foreign materials are sent, manufactured, and then returned to the original market. AMERICAN HERITAGE DICTIONARY 1097 (3rd ed. 1992).

489. *Castro Takes One More Step Toward Capitalism*, *supra* note 3, at 45.

490. Foreign Investment Law art. 10; Davies, *supra* note 3, at 14.

491. Foreign Investment Law art. 10.

492. *Id.* art. 8; *Castro Takes One More Step Toward Capitalism*, *supra* note 3, at 45; Rice, *supra* note 410, at A5.

493. Foreign Investment Law art. 16(2)(a)-(c); Rice, *supra* note 410, at A5; Farah, *Cuba*, *supra* note 415, at D1.

494. Foreign Investment Law art. 6.

495. Douglas Farah, *Socialist Cuba Alters Course to Spur Foreign Investment; New Cuban Law Permits Free-Trade Zones*, WASH. POST, Sept. 6, 1995, at A1. Supporters of open investment, even by former Cuban nationals, include Fidel Castro, Alfredo Guevara, Miguel Barnet, Orfilio Pelaez, Lazaro Barredo, Roberto Bobaina, Eusebio Leal, Luis Estruch and Vicente Jimenez. *Castro Says Cuban Émigrés Should Not Be Excluded from New Investment Law*, BBC Summary of World Broadcasts, Sept. 6, 1995, available in LEXIS, News Library, Bbcwb File.

496. *Id.*

497. *Castro Says Cuban Émigrés Should Not Be Excluded from New Investment Law*, *supra* note 495. Authorization has been defined as one coming from either the Executive Committee of the Council of Ministers, or a Government Commission designated by the Council. Foreign Investment Law art. 2(a). According to Article 21(2), an investment must be approved by the Executive Committee if: (a) the transaction is over US\$10 million; (b) the capital is entirely from overseas; (c) the investments in public services including transportation, communication, aqueducts, electricity, or for the building or operation of any other public work; (d) the investment is by a foreign government; (e) the project is



investors are expected to offer foreign exchange, technology, and markets.<sup>498</sup> The new legislation is said to allow flexibility, but will require verification and consultation.<sup>499</sup> Additionally, the Cuban state reserves the right to decide on the approval of any contract.<sup>500</sup>

Employment is perhaps the most complex issue in the legislation.<sup>501</sup> Under the new framework, foreign investors are still banned from directly hiring Cuban nationals in most cases.<sup>502</sup> Instead, employees will have to work through a state-run employment agency that is responsible for allocating workers.<sup>503</sup> While the employer will be charged dollars, the workers will be paid in Cuban pesos.<sup>504</sup> In this sense, the law continues its prior practice of prohibiting direct employment of Cuban citizens, and substituting instead Cuban intermediary companies to employ local workers. Castro stated that the purpose of this policy was to protect Cuban workers from the "anarchy, disorganization and privileges" of free, direct hiring by foreigners.<sup>505</sup>

Still, large foreign investors will be allowed to press for individuals they want in exceptional cases,<sup>506</sup> a loophole that could become much wider than it now appears.<sup>507</sup> Employees who must work for the Cuban intermediaries may be paid a second, under-the-table dollar wage, to top off low official salaries.<sup>508</sup> Earlier drafts of the legislation allowed investors to employ workers directly.<sup>509</sup>

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for mineral exploitation; (f) there is a purchase of state property or real estate; or (g) the transaction involves the armed forces. *Id.* art. 21.

498. *Castro Says Cuban Émigrés Should Not Be Excluded from New Investment Law*, *supra* note 495.

499. *Castro Says Approval of Investments Will Be 'Flexible' but Subject to Scrutiny*, *supra* note 17.

500. Acosta & Acanda Report, *supra* note 487.

501. *Castro Says Approval of Investments Will Be 'Flexible' but Subject to Scrutiny*, *supra* note 17.

502. Foreign Investment Law art. 31(1); *see also* *Cuban Parliament Passes Controversial Investment Law Changes*, *supra* note 484. Article 31(2) allows employers to hire directly foreign management or technical employees, despite Article 31(1)'s policy preference for hiring Cuban nationals. Foreign Investment Law art. 31(2).

503. Foreign Investment Law art. 33; Davies, *supra* note 3, at 14.

504. Davies, *supra* note 3, at 14.

505. Martin, *supra* note 407, at 8.

506. Farah, *Foreign Investors*, *supra* note 408, at A14. Article 35 allows the governmental authorization to set up "special labor rules." *See* Foreign Investment Law art. 35.

507. *Castro Takes One More Step Toward Capitalism*, *supra* note 3, at 45; de Cordoba, *supra* note 407, at A11.

508. *Castro Takes One More Step Toward Capitalism*, *supra* note 3, at 45; *see also* de Cordoba, *supra* note 407, at A11.

509. de Cordoba, *supra* note 407, at A11.

The new investment legislation now allows foreigners to purchase property, including attractive beachfront lots suitable for condominiums.<sup>510</sup> In theory, investments of \$10 million or less can be approved at a ministerial level within sixty days<sup>511</sup> from the time the respective proposal is submitted to the government for consideration.<sup>512</sup> To provide investors with security to induce investment, the law guarantees appropriate prior compensation in the case of any expropriation.<sup>513</sup> Still, the legislation was approved without the belief that it would result in massive new investment, but rather that it would prevent loss of investment and keep Cuba competitive in terms of investment opportunity.<sup>514</sup> Andrew Zimbalist, a Smith College economist and a Cuba specialist, says investors fear that the Cuban government will treat them according to "political whim."<sup>515</sup> Historically, this has made investors wary about their involvement in Cuba.<sup>516</sup>

### C. Housing

Two basic systems of home ownership coexist in Cuba, outright ownership of housing and long-term leasing.<sup>517</sup>

#### 1. Home Ownership

Article 22 of the 1976 Cuban Constitution and Article 156 of the Civil Code seek to establish the right to home ownership.<sup>518</sup> Since 1959, one million Cubans have become homeowners.<sup>519</sup> Rough estimates show there are about 2.75 million homes in Cuba with about eighty to ninety percent of them privately owned.<sup>520</sup>

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510. Davies, *supra* note 3, at 14.

511. *Id.*

512. Foreign Investment Law art. 21(6); *see also* *Castro Says Approval of Investments Will Be 'Flexible' but Subject to Scrutiny*, *supra* note 17 (citing Ernesto Melendez, the Cuban Foreign Investment and Economic Cooperation Minister).

513. Article 3 of the Foreign Investment Law allows expropriation for "public utility or social interest." Davies, *supra* note 3, at 14; Foreign Investment Law art. 3. Article 3 also requires prior indemnification in freely convertible money at a commercial value of mutual agreement or a value established through an international arbitration arrangement. *Id.*

514. *Castro's Remarks*, *supra* note 472.

515. Rice, *supra* note 410, at A5.

516. *Id.*

517. John P. Rathbone, *Private Property Rights in Cuba (1992): Housing*, LA SOCIEDAD ECONÓMICA DE AMIGOS DEL PAÍS BULLETIN (La Sociedad Economica, London, England), Mar. 17, 1991, at 2 [hereinafter Rathbone, *Housing*].

518. *Id.*

519. *Id.*

520. *Id.*



When addressing home ownership, a distinction should be made between ownership of the house structure itself and ownership of the lot on which the home sits.<sup>521</sup> A homeowner does not necessarily own the lot.<sup>522</sup> At times, the lot may be state-owned.<sup>523</sup> This, however, is a legal technicality. In these cases, the homeowner can purchase a life-long, inheritable right to live on the land, called a *derecho perpetuo de superficie*, a usufructuary interest.<sup>524</sup> The fee is paid on a one-time-only basis.<sup>525</sup> The usufructuary rights remain in effect as long as the land is used for housing.<sup>526</sup>

#### a. The 1960 Urban Reform Act

The Urban Reform Act of October 1960 radically changed the housing market in Cuba. The legislation canceled outright all leases and mortgages on existing properties.<sup>527</sup> Renters and mortgagees were converted into potential owners, and were required to make payments to the state.<sup>528</sup> If they paid punctually, including all real estate taxes (now their responsibility), they became owners after a period of years, depending on the age of the building.<sup>529</sup> These "potential owners" were also responsible for all repairs.<sup>530</sup> Any delinquency in payment meant loss of all rights.<sup>531</sup>

From a legal perspective, the new law introduced the idea of housing as an inalienable, non-rescindable right.<sup>532</sup> Leaseholds were converted from private to public ownership, the State giving usufructuary interests to the occupants, now "owners."<sup>533</sup> In the first phase of

521. *Id.* at 4.

522. Consuegra-Barquín, *supra* note 109, at 911.

523. *Id.* Consuegra-Barquín actually argues that the state is the sole proprietor of the totality of the Republic's land, with the exception of those lands that belong to small farmers or their cooperatives. *Id.* This would include urban lots. *Id.*

524. Resolución No. 1/87 resolution 1 (Jan. 6, 1987) (G.O., Jan. 21, 1987) (Cuba) [hereinafter Resolution 1/87].

525. Rathbone, *Housing*, *supra* note 517, at 4.

526. *Id.*

527. LAZO, *supra* note 38, at 231.

528. *Id.*

529. *Id.*

530. *Id.*

531. *Id.*

532. Ley de Reforma Urbana whereas cl. 2 and art. 1 (G.O., Oct. 14, 1960) (Cuba) [hereinafter Urban Reform Law]. Urban reforms have precedence in the Latin America region. See, e.g., Decreto Ley No. 3819 (Aug. 27, 1954) (Cuba); Ley de Oct. 29, 1956 (Bol.).

533. Article 9 of the Urban Reform Law sets forth the contract whereby the occupant purchases the house from the Government. Urban Reform Law art. 9. See also Ley Gen-

the law, purchasers had financing terms of five to twenty years, depending on the age of the home.<sup>534</sup> The law was later amended to allow for newly constructed homes to be sold off with permanent usufructuary interests, with monthly financing not to exceed ten percent of family income.<sup>535</sup> The third and final stage was to give free usufructuary interests to all families.<sup>536</sup>

All urban rental arrangements were declared illegal,<sup>537</sup> except for vacation hotels, hostels, or non-permanent arrangements for vacations.<sup>538</sup> Mortgages were also outlawed.<sup>539</sup> Property the state handed out could not be traded, transferred or sold without prior authorization from the Counsel of the Urban Reform.<sup>540</sup> The State maintained a right of first refusal in all such cases.<sup>541</sup> Despite research, it could not be determined whether these provisions have been honored in practice.

In a transition from leasehold to freehold, the government first reduced rents by 30 to 50 percent along a gradual scale.<sup>542</sup> Surprisingly, criminal penalties attached for infringement of this civil legislation.<sup>543</sup> As a result of this new legislation, over 200,000 rentals were converted to home ownership.<sup>544</sup>

In practice, the Cuban government was a strict landlord. Attorneys representing former owners seeking compensation or clients about to be evicted were themselves accused of counter-revolutionary activities, an offense that carried the death penalty.<sup>545</sup>

#### b. The 1984 Housing Law

By 1984, about half of the 2.5 million Cubans owned their homes.<sup>546</sup> The 1984 legislation sought to extend home ownership to those persons who had lived as usufructuary beneficiaries of govern-

eral de la Vivienda, Ley No. 65 whereas cl. 2 (G.O., Dec. 23, 1988) (Cuba) [hereinafter 1988 Housing Law].

534. Urban Reform Law art. 1(a)

535. *Id.* art. 1(b).

536. *Id.* art. 1(c).

537. *Id.* art. 2.

538. *Id.* art. 4.

539. *Id.* art. 30.

540. *Id.* art. 29.

541. *Id.*

542. *Id.* art. 37.

543. *Id.* art. 44.

544. Rathbone, *Housing*, *supra* note 517, at 2.

545. LAZO, *supra* note 38, at 231.

546. Rathbone, *Housing*, *supra* note 517, at 2.



ment-constructed housing built since 1960.<sup>547</sup> Legislation affirmed the goal of housing ownership for all occupants currently living in homes.<sup>548</sup> The law also sought to promote construction to address the national housing deficit.<sup>549</sup> The *Instituto Nacional de la Vivienda* (National Housing Institute) was charged with carrying out these goals.<sup>550</sup>

The 1984 legislation allowed 480,000 lessors to amortize their rent payments to purchase homes.<sup>551</sup> Sales prices were calculated at the equivalent of fifteen to twenty years of rent, with rent being no more than ten percent of monthly income.<sup>552</sup> Past rent counted towards the purchase price.<sup>553</sup> For persons wishing to purchase the property outright, personal loans, but not mortgage loans, were available through the *Banco Popular de Ahorro* (People's Savings Bank), the only institutional source for consumer lending in Cuba.<sup>554</sup> Otherwise, occupants simply continued to pay monthly rent until they purchased the house.<sup>555</sup> By 1988, 450,000 families had acquired homes (with 350,000 homes registered to titleholders), while 30,000 home sales remained pending, due to late rent payments.<sup>556</sup>

Since back rent counted toward purchase price, about 740,000 individuals automatically received title to their homes without any additional payment due.<sup>557</sup> This figure represents about one third of Cuban households.<sup>558</sup> Included in this group were persons who built their own homes and beneficiaries of housing projects in rural areas.<sup>559</sup>

Persons who continued to live in tenements, irreparable structures or informal housing were ineligible for registration as homeowners.<sup>560</sup> In these cases, the earlier Urban Reform Law continued to

547. Ley General de la Vivienda, Ley No. 48 art. 22 (G.O., Dec. 27, 1984) (Cuba) [hereinafter 1984 Housing Law]. People who built homes prior to October 14, 1960 on land belonging to the state, in most cases got the land free of any further charge for the *derecho perpetuo de superficie* (right of usufruct). See also Resolution No. 1/87 resolution 4.

548. 1984 Housing Law art. 1.

549. *Id.* art. 2(ch) and (e).

550. *Id.* art. 3; 1988 Housing Law art. 145.

551. Rathbone, *Housing*, *supra* note 517, at 2.

552. 1984 Housing Law art. 11.

553. Rathbone, *Housing*, *supra* note 517, at 3.

554. 1984 Housing Law art. 9; see also Rathbone, *Housing*, *supra* note 517, at 3.

555. *Id.* arts. 10, 13.

556. Rathbone, *Housing*, *supra* note 517, at 2-3.

557. *Id.* at 3.

558. *Id.*

559. *Id.*

560. *Id.*

apply.<sup>561</sup> These individuals continued to have lifetime, rent-free leasehold interests.<sup>562</sup> When appropriate state-constructed housing became available, these individuals would be given the opportunity to purchase a home under the same conditions as other beneficiaries of the 1984 Housing Law.<sup>563</sup>

Yet another group of individuals occupied 145,000 housing units (about six percent of all Cuban housing), which were either owned by or connected with workplaces, representing about one-third of houses built in postrevolutionary Cuba.<sup>564</sup> These persons received special consideration under the legislation, paying a monthly amortized rental payment calculated at about half of the price of comparable housing on the rental market.<sup>565</sup> The rental occupants would become owners outright after twenty years of rental payment.<sup>566</sup>

Finally, the legislation promoted self-construction of housing. It allowed market rate sale of housing, and market rate rental for extra rooms for up to six months.<sup>567</sup> The rental market for extra rooms was important, since there were about 140,000 homes with at least one extra room according to a 1981 census.<sup>568</sup> Special permission was granted for trading homes and swapping home loans.<sup>569</sup> It seems likely that the general housing scarcity pushed individuals into the rental market.

### c. The 1988 Housing Law

The 1988 Housing Law represented a partial reversal of the market orientation of the 1984 legislation.<sup>570</sup> The legislation passed amid

561. *Id.*

562. *Id.*

563. *Id.*

564. *Id.*

565. *Id.*

566. Articles 74 to 76 of the Housing Law of 1984 discuss *viviendas vinculadas* (connected housing). See 1984 Housing Law arts. 74-76.

567. Articles 94 to 107 of the 1984 Housing Law discuss room rentals. See *id.* arts. 94-107. This concept is carried forward in Article 74 of the 1988 Housing Law. 1988 Housing Law art. 74.

568. Rathbone, *Housing*, *supra* note 517, at 3.

569. 1984 Housing Law art. 68.

570. The fourth *whereas* clause of the 1988 Housing Law states: "[F]ortalecer el control que el Estado debe ejercer sobre las operaciones alvededor de la vivienda, así como a definir la decisiva participación estatal en la solución del problema habitacional en el país." Housing Law of 1988 *whereas* cl. 4. (In translation, this *whereas* clause reads: "To fortify the control that the State should exercise over the operations regarding housing, as well as to define the decisive participation of the state in solving the housing problem in the country.")



public debate on "correction of errors" and "negative tendencies" within Cuba.<sup>571</sup> This debate came out of the Third Party Congress in 1986, after individuals recognized a need to address the gap between the rhetoric of exemplary conduct and the facts of privilege and bureaucratic corruption.<sup>572</sup> Old practices, like complacency and trafficking in personal privileges, were reappearing in Cuba and party discipline was in question.<sup>573</sup> Consequently, Cuban leadership sought to confront these concerns.<sup>574</sup>

While in many ways the 1988 law was a continuation of its forerunner, it introduced greater potential for state intervention in the housing and construction markets.<sup>575</sup> It also cut back on the right to buy and sell housing in the market.<sup>576</sup>

## 2. Leasehold

Leaseholders generally live in one of three housing categories: substandard housing, state owned properties, or houses left vacant due to emigration.<sup>577</sup> Individuals in substandard housing live rent free with a lifetime leasehold interest.<sup>578</sup> About ten percent of Cubans live in such housing, representing the most popular form of household leasing.<sup>579</sup>

The second group of renters either is still renting properties that were in the private sector in 1959, but are now state-owned (in which case the renter has a usufructuary interest), or is in state-owned property leased without a purchase option.<sup>580</sup> Tenants with a usufructuary interest simply amortize rental payments until obtaining an equity position.<sup>581</sup> With the 1984 legislation, most usufructuary beneficiaries became outright owners. Therefore, those continuing with a leasehold interest represent a negligible portion of the rental market.<sup>582</sup> Similarly, very few renters occupy state-owned houses without a purchase option, also due to the 1984 legislation.<sup>583</sup> Today, leasehold applies

571. Rathbone, *Housing*, *supra* note 517, at 3.

572. del Aguila, *supra* note 161, at 22.

573. *Id.*

574. *Id.* at 19, 22-23.

575. *Id.* at 22.

576. Rathbone, *Housing*, *supra* note 517, at 3.

577. *Id.* at 4.

578. *Id.* at 3.

579. *Id.* at 4.

580. *Id.*

581. *Id.*

582. *Id.*

583. *Id.*

mainly to renters in special land use zones, such as areas destined for tourist development.<sup>584</sup>

The final group of renters occupy houses left vacant due to emigration.<sup>585</sup> From 1960 to 1974, 139,256 houses became available for rental in this fashion, almost as many homes as were constructed by the government over that same period.<sup>586</sup> The government has managed these homes under the same criteria it uses for newly built government housing.<sup>587</sup>

Tenants in housing made available because of emigration of their owners could receive title to the home in two ways.<sup>588</sup> Approximately forty percent of homes were confiscated by the government and used for public services like schools.<sup>589</sup> The remaining homes, approximately sixty percent, were leased to economically disadvantaged families.<sup>590</sup> Tenants would then make monthly payments amortized until the house was purchased.<sup>591</sup> Alternatively, if the new tenants themselves left the country, any close relative that lived with the tenant for at least two years prior to the tenants' departure could simply assume the tenants' position and continue paying amortized rental payments.<sup>592</sup> This provision could be extended beyond close relatives to any other person living with the tenant, but then a period of five years of living with the tenant would be required for the new beneficiary, instead of just two.<sup>593</sup>

### a. Rental Value

Article 50 of the 1988 Housing Law established a scale for rent pricing.<sup>594</sup> The calculations consider property location, usable floor space, and depreciation.<sup>595</sup> Rent is capped at twenty percent of income.<sup>596</sup> For low income residents, rent may not exceed ten percent of household income.<sup>597</sup> In slum dwellings called "cuarterias," renters

584. *Id.*

585. 1988 Housing Law art. 55(b); *see also* Rathbone, *Housing*, *supra*, note 517, at 4.

586. Rathbone, *Housing*, *supra* note 517, at 4.

587. *Id.*

588. *Id.* at 4-5.

589. *Id.*

590. *Id.*

591. *Id.*

592. *Id.*

593. *Id.*

594. 1988 Housing Law art. 50.

595. *Id.*; *see also* Rathbone, *Housing*, *supra* note 517, at 5.

596. Rathbone, *Housing*, *supra* note 517, at 5.

597. 1988 Housing Law art. 50, para 2; *see also* Rathbone, *Housing*, *supra* note 517, at 5.



have lived rent free since 1967.<sup>598</sup> Actual rental price is fixed by the municipality where the home is located.<sup>599</sup> Rent is paid monthly at the People's Saving Bank.<sup>600</sup>

#### b. Leasehold interests

Leasehold interests are expansive under Cuban law. Leases are inheritable and may only be ended: (1) by mutual agreement; (2) due to death or emigration without leaving clear heirs; (3) due to unsafe conditions; or (4) if the occupant is an illegal occupant.<sup>601</sup> Illegal occupants are usually squatters and persons who are more than three months behind in rent either on state or private property.<sup>602</sup> In theory, illegal occupants could be evicted, however, few evictions actually occur.<sup>603</sup> Evicted persons have nowhere to go. Thus, more often, the state garnishes up to fifty percent of wages.<sup>604</sup> Thus, there are in fact few evictions. Leased homes can be swapped with other occupants of leased homes, provided proper authorization is given at the municipality.<sup>605</sup>

### 3. Real Estate Market for Housing

The Cuban housing market is tightly controlled. The state maintains the right of first refusal on all sales.<sup>606</sup> Owners may only sell at a government determined price, a function of the size, location, and quality of the home.<sup>607</sup> Prices range from 45 to 215 pesos per square meter.<sup>608</sup> Values have no relationship to amortized rental prices; often sales prices are much lower.<sup>609</sup>

598. Rathbone, *Housing*, *supra* note 517, at 5.

599. Resolución No. 63/92 art. 5 (Apr. 24, 1992) (G.O., May 6, 1992) (Cuba) [hereinafter Resolution 63/92].

600. *Id.* art. 6.

601. 1988 Housing Law art. 58. These classifications were redefined by executive order. Article 11 of Resolution No. 63/92 allows for rental to conclude in six ways: (1) by mutual agreement, (2) unilateral decision of the renter, (3) by unjustified use of the home for six months, (4) due to change in purpose for the home, (5) due to breach of contract by renter, (6) due to trade of the home to someone else or cession of rights to someone else, and (7) due to public utility. See Resolution No. 63/92 art. 11.

602. See generally 1988 Housing Law arts. 111-15.

603. *Id.* art. 114.

604. Rathbone, *Housing*, *supra* note 517, at 5. This remedy is contemplated in Article 113 of the 1988 Housing Law. See 1988 Housing Law art. 113.

605. Resolution No. 63/92 art. 10.

606. See, e.g., Resolution No. 1/87 resolution 6.

607. Rathbone, *Housing*, *supra* note 517, at 5.

608. *Id.*

609. *Id.* at 5-6.

Due to the low sales prices, there are few formal market sellers. More typical are *permutas* (house exchanges).<sup>610</sup> These exchanges require no governmental or legal authorization.<sup>611</sup> Persons can trade homes and personal debt.<sup>612</sup> Under Cuban law, home or consumer loans are personal rather than asset-based.<sup>613</sup> The exchange of homes allows households to take personal debts with them to the new residence.<sup>614</sup> Moreover, the 1984 legislation allows parties to exchange personal debts, functioning as a substitute for mortgage lending by one party to the other.<sup>615</sup> One party can even end up holding the personal debts from both dwellings.<sup>616</sup>

To get more homes on the market, the government has pledged support for housing construction loans.<sup>617</sup> Special rules on construction seek to further encourage new construction.<sup>618</sup> This strategy complements housing swaps to provide additional housing. House swaps usually involve only two parties, but may involve complicated, multiple exchanges. Indeed about 20,000 swaps take place annually.<sup>619</sup> Classified ads, bus stops, window ads and grocery stores serve as advertising networks.<sup>620</sup>

Finally, a condominium law has given structure to multifamily housing arrangements.<sup>621</sup> This framework allows individuals living in multifamily units to transfer individual interest with total independence from the group.<sup>622</sup> Condominium housing is either self-administered, if it is a smaller piece of property, or administered by the municipality, if there are a large number of individual homes involved.<sup>623</sup> In either case, an Administrative Board oversees the con-

610. 1984 Housing Law art. 68; 1988 Housing Law art. 68.

611. 1988 Housing Law art. 68. Non-traded homes required certain legal formalities for an exchange, including notarized documents and prior authorization. See 1984 Housing Law art. 70; 1988 Housing Law art. 70.

612. Rathbone, *Housing*, *supra* note 517, at 5-6.

613. *Id.*

614. *Id.*

615. *Id.*

616. *Id.*; 1984 Housing Law art. 68.

617. 1988 Housing Law art. 5; Joint Resolution, *whereas* cl. 1.

618. See generally Resolución No. 160/91 (June 27, 1991) (G.O., July 17, 1991) (Cuba) [hereinafter Resolution No. 160/91].

619. Rathbone, *Housing*, *supra* note 517, at 5.

620. *Id.* at 6.

621. Since the new 1988 Housing Law, new rules were enacted to carry out this policy. See generally Resolución 4/91 (Jan. 14, 1991) (G.O., Jan. 18, 1991) (Cuba) [hereinafter Resolución No. 4/91].

622. *Id.* art. 4.

623. *Id.* arts. 33-35.



dominium.<sup>624</sup> The residents elect a President and a Treasurer by certain democratic procedures.<sup>625</sup>

Because of the 1988 Law, current legislation forbids speculation in the housing market.<sup>626</sup> Consequently, exchanges between large, expensive homes and cheaper, smaller homes are not allowed. Exchanges must be certified by a notary empowered to use discretion about whether a transaction might be suspect.<sup>627</sup> Occasionally, speculative transactions may result in state confiscation of the property.<sup>628</sup>

In the leasehold market, lessees can also trade homes. Leased homes can be swapped with other occupants of leased homes, provided proper authorization is given at the municipality.<sup>629</sup> Unlike the freehold market, exchanges of leases require authorization from the appropriate local housing council.<sup>630</sup>

Finally, leaseholders can exchange property with homeowners under a complex legal arrangement. Title for homeowners remains with the household, not the house itself. So, a leaseholder who trades with an owner remains a leaseholder in the new home. The homeowner, similarly, remains a homeowner but in the new house. While these exchanges made transactions confusing, they have largely been eliminated as a result of the 1984 legislation that made most occupants owners outright.<sup>631</sup>

In practice, there is an active informal land market. According to one account from 1991:

If you wanted to move within [Havana], you simply went to the Del Prado Avenue plaza, Havana's real estate marketplace. Hundreds of people gathered every morning in a tree-covered square in the middle of the wide avenue. Men and women—many of them elderly people—would sit on the colonial benches or walk around holding signs. "Have three bedroom apartment in Vedado. Looking for one bedroom apartment in same area," read a typical one. The minute you inquired about a possible exchange, the seller would say: "I'm open to proposals," code for, "How much are you willing to pay?"

624. *Id.* art. 36.

625. *Id.* arts. 36-40.

626. 1988 Housing Law final disposition 7.

627. *Id.* arts. 69-72.

628. *Id.* final disposition 7.

629. Resolution No. 63/92 art. 10.

630. *Id.*

631. Rathbone, *Housing*, *supra* note 517, at 6.

Milling around the plaza were illegal real estate agents, carrying thick notebooks under their arms. If you didn't find a sign to satisfy your housing needs, you approached one of the agents, and told him what you were looking for. The man would check his notebook and most likely find your dream house there. The middleman would then arrange a meeting with the potential seller.

If the transaction went through, the realtor would get a five percent commission on the off-the-books purchase price. As far as the government was concerned, the two properties had been traded without one centavo ever changing hands.<sup>632</sup>

### III. Status of Geographic Information: Property Registries

The agrarian reform legislation prescribed that all land not recorded in the property registries before October 10, 1958 would be considered property of the State.<sup>633</sup> That same legislation required the Ministry of Treasury to survey and record all state lands.<sup>634</sup> State lands consist of unregistered properties, properties registered in favor of the state, and purchased and acquired lands.<sup>635</sup> Actions for recovery of state land are imprescriptible; that is, they do not have a respective statute of limitations.<sup>636</sup>

The agrarian reform law also mandated that new regulations be implemented for registration of land grants in a new Rural Property Section of the Property Registry.<sup>637</sup> Until these new regulations were

632. OPPENHEIMER, *supra* note 166, at 140-41.

633. Agrarian Reform Law art. 8.

634. *Id.*

635. *Id.* art. 10.

636. *Id.* transitory provision 1.

637. *Id.*

PROPERTY REGISTRATION PROCESS AT A GENERIC TRADITIONAL REGISTRY IN CENTRAL AMERICA: SAMPLE PROPERTY TRANSFER		
Steps	Usual Time	Comments
1. Presentation	Less than half an hour.	Presentation of a registration request is carried out at the public counter. The request is called a <i>diario</i> . The <i>diarios</i> are usually presented by lawyers or notaries to one of two windows where the receipt of the document is recorded. The receipt book contains columns for owner name, a document number (assigned serially by month), and the volume and page where a copy of the document is actually filed (in the tomes). The time and date are also stamped on the back of the last page of the document. Two copies must be presented for recording, with a copy kept for filing and the original returned to the owner.



2. Microfilming	Microfilming of documents is relatively up-to-date, without any backlog.	Microfilm copies are made and stored on site.
3. Marginalization	A delay of about three months.	Marginalization is a process of making marginal notes, indications of a transaction pending. The delay of about three months creates opportunities for fraud via multiple sales of a single parcel prior to completion of marginalization.
4. Distribution	Little delay.	Distribution of the transaction is made to a working group, which will inscribe the transaction. Working groups are referred to as "cells," or <i>células</i> in Spanish.
5. Confrontation	Usually several days. However, if someone else is using the book(s) needed to carry out the confrontation, the examination is put on hold until the book(s) is/are available. In practice, this means months in some cases.	Confrontation consists of examination of the document against the existing records in the Registry.
6. Qualification	Assuming there is no problem, the document will pass the qualification in about a week. If a problem arises, however, the process bogs down and can carry on for as long as <i>ten years</i> .	Qualification involves a scribe who drafts up the document, which is then approved by a Registrar.
7. Typing	In El Salvador, for example, as of July 1994, there was a several month backlog in this office.	This involves preparation of a summary in the <i>folio real</i> or a note in the <i>folio personal</i> , according to the case. The same persons responsible for preparing the textual notes also receive public inquiries. Consequently, they spend most of their time answering questions rather than processing new documents.
8. Photocopying	This now takes about three days.	This activity is done on site.
9. Completion	Little delay.	a) If a <i>folio real</i> transaction: the documents are microfilmed. This process is up-to-date. The documents are then forwarded to the registry's internal cadastre office. b) If a <i>folio personal</i> transaction: the documents are sent straight to the registry's internal cadastre office.

Steven E. Hendrix & Stephen J. Leisz, Land Registration for the Urban Poor in Nicaragua: A Status Report with Recommendations 16-17 (July 1995) (unpublished report on file with the Land Tenure Center Library, University of Wisconsin).

put in place, the existing law governed.<sup>638</sup> Reportedly, Cuba has retained its *folio personal* system of property registration,<sup>639</sup> a system still used in parts of Latin America and the Caribbean.<sup>640</sup> Despite a literature review, it is not clear how much the Cuban *folio real* differs from its neighbors' versions.<sup>641</sup>

### A. Urban Registry

The 1984 housing legislation affirmed a *Registro de la Propiedad de la Vivienda* (Housing Property Registry) under the National Housing Institute.<sup>642</sup> The registry was decentralized, and inscription took place at the municipal level where the house was located.<sup>643</sup>

In 1988, Cuba replaced its former housing registry with a new computerized version, organized in a slightly different fashion. While the former housing registry remains, it is only used as a reference tool, not as the active registry.<sup>644</sup>

638. *Id.*

639. Telephone Interview with Roberto Estrada, Registrar, Vieja Habana, Apr. 20, 1995.

640. El Salvador, for example, maintains most of its rural records in a *folio personal* system, as do Venezuela, Ecuador, and Bolivia. Hendrix & Leisz, *supra* note 638, at 18. In very simplified terms, the *folio personal* system is indexed by name, as opposed to a *folio real* system (used in Costa Rica, Nicaragua, Guatemala, or San Salvador in El Salvador), which is indexed on a parcel basis. *Id.* Analogies can be drawn in common law jurisdictions between areas using a deeds registry system (like most of the United States and portions of Trinidad and Tobago, Barbados, Guyana, and Belize) as opposed to a parcel-based or Torrens system (like Australia or South Africa; surveyed portions of Trinidad and Tobago, Barbados, Guyana, and Belize). *Id.* The *folio personal* is often a slower, more expensive system. *Id.* The *folio real*, however, is predicated on up-to-date parcel maps. In this context, Cuba's continued use of the *folio personal* system can be viewed as conventional. *Id.*

641. The *folio real* is usually a large book (about 15 by 18 inches) containing about 250 pages per volume. The pages are two-page sets, facing each other. The left page has three major and several minor columns containing information about rights to the property. For example, the inscription (parcel description) is placed in the second of the three major columns. Only one inscription is written for each parcel. The left column contains any annotations such as judgments. The right hand column contains information on cancellations, such as cancellation of a use right. The right hand page also contains three major columns and several minor columns, all related to encumbrances on the parcel. For example, mortgages and liens are noted in the center column. Columns for annotations and cancellations, similar to the left page, are also available for the encumbrances page. All entries are usually handwritten or typewritten.

*Id.*

642. 1984 Housing Law art. 120; 1988 Housing Law art. 120.

643. 1984 Housing Law art. 122; 1988 Housing Law art. 117.

644. Rathbone, *Housing*, *supra* note 517, at 1.



Property registration was initiated in Cuba in 1893.<sup>645</sup> The old Civil Code system outlined a framework for inscribing the owner's name and property.<sup>646</sup> However, the registry slowly fell into disuse after the Revolution.<sup>647</sup> Most transfers were made informally, despite Articles 120 and 123 of the 1984 Housing Law that mandated inscription of all transfers.<sup>648</sup>

Article 116 of the 1988 Housing Law created a new registry designed to record all transfers of housing dating back to the Revolution.<sup>649</sup> Reportedly, there are really only two differences between the new and old registries.<sup>650</sup> First, the new registry reverses the order of name inscription.<sup>651</sup> The current owner is listed first, with prior owners listed afterwards.<sup>652</sup> The old system had an inverse system: the current owner was listed last, the very first owner topped the list.<sup>653</sup> Second, the new registry is computerized, despite local press objections to a registry that could be altered as easily as a computerized one.<sup>654</sup> A fee of twenty pesos is charged for any notes made within the registry system.<sup>655</sup> This is paid through tax seals placed on documents.<sup>656</sup>

### B. Rural Registry

Article 9 of the 1959 Agrarian Reform Law required the Ministry of Agriculture to record any confiscated property.<sup>657</sup> Article 28 required that redistributed land also had to be inscribed.<sup>658</sup> Provision Number 3 of the 1959 Agrarian Reform Law allowed for creation of a new rural property registry by INRA for inscription of all future transactions.<sup>659</sup>

645. *Id.* at 6.

646. *Id.*

647. *Id.*

648. *Id.*

649. 1988 Housing Law art. 116.

650. Rathbone, *Housing*, *supra* note 517, at 7.

651. *Id.*

652. *Id.*

653. *Id.*

654. *Id.*

655. 1988 Housing Law art. 121.

656. *Id.*

657. Rathbone, *Farmland*, *supra* note 251, at 5.

658. *Id.*

659. *Id.*

The 1963 Agrarian Reform Law did not mention any obligation to record land transactions.<sup>660</sup> Since then, production cooperatives have been formed, state farms have been merged, and private farms sold.<sup>661</sup> Thus, some transactions may have gone unrecorded since 1963. However, Articles 62 and 68 of the 1982 Agricultural Cooperatives Law required that all property transactions involving the formation or liquidation of CPAs should be recorded with the State Statistics Committee.<sup>662</sup> Also, legal owners of land were required in 1990 to inscribe land at the municipal registry.<sup>663</sup> So perhaps it will be possible to recover at least part of data on unrecorded transactions post 1963.

The *Registro de la Tenencia de la Tierra* (Land Tenure Registry) is governed by government resolution.<sup>664</sup> Rural property registries are at the municipal level<sup>665</sup> and are based on registries that have been functioning since prerevolutionary times.<sup>666</sup> The registry divides ownership into the following categories: state ownership, cooperative ownership, private property, non-state property (political, social, and popular groups that may own property), and other entities (any type not falling under a previous heading).<sup>667</sup> In terms of organizational structure, municipal and territorial offices were set up.<sup>668</sup> These offices were under the broader control of the Territorial Judicial Departments. The Central Registry Office remained under the control of its internal Legal Department.<sup>669</sup>

The Central Registry Office receives copies of inscriptions from the field offices and maintains a centralized, up-to-date national registry.<sup>670</sup> It also inspects and supervises local offices to insure proper office operation, among other functions.<sup>671</sup> In short, the registries have local municipal offices that have contact with the public.<sup>672</sup> Ter-

660. *Id.*

661. *Id.*

662. *Id.*

663. Resolución 288/90 art. 14 (G.O., May 17, 1990) (Cuba) [hereinafter Resolution No. 288/90].

664. Resolution 597 created the Registry, and Resolution 598 set forth its administrative rules. Resolución 288/90 whereas cl. 2 (citing Resoluciones Nos. 597/87, 598/87 (Oct. 27, 1987) (G.O., Nov. 13, 1987) (Cuba) [hereinafter Resoluciones Nos. 597/87, 598/87]).

665. Resolución No. 288/90 art. 6.

666. Rathbone, *Farmland*, *supra* note 251, at 5.

667. Resolución No. 598/87 art. 2; Resolución No. 288/90 art. 2.

668. Resolución No. 598/87 art. 4.

669. *Id.*

670. *Id.* art. 5(a), 6.

671. *Id.* art. 5(c)-(e).

672. *Id.* art. 7.



ritorial offices provide certain analytical and supervisory services,<sup>673</sup> while the Central Registry Office has the broadest level of oversight.<sup>674</sup> The municipal registries are also supervised in administrative matters by the Cooperative and Peasant Director for Municipalities.<sup>675</sup> The territorial offices are under the control of the appropriate Justice Department Delegation, falling under national supervision of the Central Registry Office.<sup>676</sup>

Land is always inscribed at the municipal office where the plot is found.<sup>677</sup> Where property is in more than one municipal jurisdiction, the owner will inscribe the parcel in the municipality of the owner's home. *Id.* This office will then be charged with coordinating the registration with the other appropriate office.<sup>678</sup> Exempt from municipal registration were lands belonging to the armed forces, the Interior Department and local popular power organizations for militias, which would more properly be recorded at the territorial registry.<sup>679</sup>

After an initial review at the municipal registry, requests for registration are sent to the territorial registry office.<sup>680</sup> The territorial office decides upon the merits of the case, and then orders the municipal office to proceed with inscription or not.<sup>681</sup> Backup copies of the inscription are subsequently forwarded by the municipal registry to the territorial one within thirty days.<sup>682</sup>

Data needed for inscription depends on property category. On state farms (farms belonging to the Ministry of Agriculture and Sugar), applications for inscription should contain, among other items, topography, survey, land use, housing, installations, and soil quality, as stated by the Provincial Office of Soils.<sup>683</sup> Private holding applications must include a description of how the property was obtained, together with authorization information, extent of use, survey, and other information.<sup>684</sup> Cooperatives require, among other things, clarification of any improvements, topographic information, and valua-

673. *Id.* art. 6.

674. *Id.* art. 5.

675. Resolution 288/90 art. 7.

676. *Id.* art. 8.

677. *Id.* art. 12.

678. *Id.*

679. *Id.* art. 13.

680. *Id.* art. 15.

681. *Id.* art. 16.

682. *Id.* art. 18.

683. *Id.* art. 21.

684. *Id.* art. 22.

tion.<sup>685</sup> Private smallholder farmers specifically do not need exact survey information, but can instead rely on sworn declarations for property boundaries.<sup>686</sup> Municipal and territorial offices should make land inspections periodically to insure the accuracy of data and compliance with appropriate norms.<sup>687</sup>

### C. *The National Physical and Fiscal Cadastres*

The *Catastro Nacional de Cuba* (National Cadastre) is organized by the *Dirección de Hidrografía y Geodesia* (Hydrography and Geodesy Office) under the military (*Ministerio de Fuerzas Armadas Revolucionarias*) (MINFAR). GEOCUBA, a corporate entity, is in charge of implementation of the cadastre. The cadastre falls under the jurisdiction of the *Instituto Cubano de Geodesia y Cartografía* (Cuban Institute of Geodesy and Cartography).<sup>688</sup> The cadastre is maintained via a system of municipal offices. Property occupants are expected to come to the office to update parcel information. Parcel measurement is carried out by the government, not the parties, giving a perceived higher accuracy level.<sup>689</sup> To date, the majority of the cadastre has been manually updated.<sup>690</sup>

The National Cuban Cadastre was present in 1992 in 161 municipalities. The cadastre reflects both graphic and verbal descriptions of property and occupants, whether or not legal or formal owners. The cadastral system was heavily influenced by the system previously in Czechoslovakia, which the Cubans felt was one of the most advanced in the world, having survived 300 years of governmental changes and dating back to the Austro-Hungarian Empire.<sup>691</sup>

Maps of 1:10,000 scale exist for 93% of the rural areas, with 7% of rural areas mapped at a 1:25,000 scale, generally corresponding to areas with very low parcel density.<sup>692</sup> All rural areas have been classified as either agricultural, or as one of eight classes of nonagricultural

685. *Id.* art. 23.

686. *Id.* art. 24(c).

687. *Id.* art. 38.

688. Resolution 598/87 art. 9.

689. See *Dirección de Hidrografía y Geodesia, Gobierno de Cuba, Reformas a Introducir en el Catastro Nacional de Cuba en Interés de los Fines Fiscales, Económicos y Jurídicos, Seminar on Reforms to the Cadastral and Registry Systems for the Real Estate in the Countries of Central and Eastern Europe and Latin America* (Seville, Spain, Mar. 5-8, 1996) at 2 [hereinafter *Seville Seminar*].

690. *Id.* at 6.

691. *Id.* at 1.

692. *Id.* at 2.



land. Agricultural lands have fourteen subclassifications for sugar cane, citrus, coffee, cacao, tobacco, and other products.<sup>693</sup>

Experimental maps are used for select urban areas such as all of Veradero and parts of Havana. These maps have not been carried out further due to scarcity of resources, and what does exist accounts for only about one percent of urban surface area.<sup>694</sup> For those municipalities that have a cadastre,<sup>695</sup> rural property inscriptions are required to include a Cadastral Certificate.<sup>696</sup>

Cadastral information has had primarily three uses: (1) furnishing calculations of land use area, (2) providing a base for cadastral certificates, required for the inscription of rural property in the public registry, and (3) keeping statistical analysis.<sup>697</sup> However, a working group is being organized to extend the uses of the cadastre to other fields, including tax purposes. Recently, MINFAR, the Justice Ministry, the Agriculture and Sugar Ministries, the Banco Nacional de Cuba (Central Bank), the *Oficina Nacional de Estadísticas* (National Statistics Office), GEOCUBA, and the Institutes for Physical Planning and Housing have joined together to form a working group to explore fiscal application of the national cadastre. The Cuban government believes that the system will provide easy access to necessary data, while deterring tax evasion. The present system, which allegedly provides for precise parcel description and location with georeferenced coordinates, would provide a base for future valuation of property.<sup>698</sup> Other potential future applications for present cadastral data include, among other uses, support for the public registry, banking, agricultural planning, national park management, traffic control, and social services planning.<sup>699</sup>

A literature review has disclosed no serious academic documents concerning the current state of physical cadastral systems or fiscal cadastral records. As a result, any statement here concerning accuracy, format or compatibility would be speculation.

In 1990, the *Centro de Investigaciones de Geodesia, Cartografía y Teledetección* (Center for Geodesic, Cartographic and Remote Sensing Research) established a general conceptualization for geographic

693. *Id.*

694. *Id.* at 1-2.

695. Resolution No. 598/87 art. 9.

696. *Id.*

697. Seville Seminar, *supra* note 689, at 2.

698. *Id.* at 3.

699. *Id.* at 4.

information in Cuba.<sup>700</sup> This included a land use and land tenure inventory for urban properties, along with a structure for regional and national mapping activities.<sup>701</sup> However, little has been done to carry out this work. According to one report, this activity includes base maps of 1:20,000 scale for the Havana Province, and base maps of 1:250,000 scale at the national level that exist in a DXF format.<sup>702</sup>

In summary, Cuba's property registration system (*folio real*) is a typical, if not dated, system from the region. The system is locally-based, with regional oversight offices. Although the law mandates a cadastre, there is no report of its current status. To the extent property records will be needed to address any conflict with the United States, Cuba's land administration practices will need much more attention in the immediate future.

#### IV. Property Disputes with the United States

U.S.-Cuba relations have been tumultuous. The United States took its first steps toward an embargo in 1960.<sup>703</sup> In May of that year, the United States ordered U.S. oil companies in Cuba to refuse to refine Soviet crude oil because of concern the island might be leaning toward socialism.<sup>704</sup> Castro then nationalized the refineries.<sup>705</sup> On July 6, 1960, Eisenhower canceled the 700,000 tons of sugar remaining in Cuba's 1960 quota under the Sugar Act of 1948, de facto creating an embargo.<sup>706</sup>

Ralph Galliano, writing for the Washington Times, described the situation as follows:

From May 17, 1959, through October 14, 1960, the Castro government expropriated massive amounts of private properties - including those of U.S. citizens - without [acceptable] compensation.<sup>707</sup>

700. Julio Cabrera Quiñones, Bases Cartográficas digitales planimétricas 1:20,000 de la Provincia Ciudad de La Habana [paper presented at seminar on Urban Land Markets and Information Systems in Latin America and the Caribbean] Havana, Cuba, (Nov. 27-Dec. 3, 1994) at 2.

701. *Id.* at 2-3.

702. *Id.* at 4-5.

703. Bell, *supra* note 7, at 81.

704. *Id.*

705. *Id.* These included refineries from Texaco, Shell, and Esso. See DUMONT, *supra* note 237, at 34.

706. *President Sets Cuba Sugar Quota at Zero for First Quarter of 1961*, 44 DEP'T ST. BULL. 18 (1961); Bell, *supra* note 7, at 81.

707. What is adequate compensation? There has been a great deal of debate on this issue. See, e.g., Patrick M. Norton, *A Law of the Future or a Law of the Past? Modern Tribunals and the International Law of Expropriation*, 85 AM. J. INT'L L. 474 (1991).