

Seaboard Corp. Sued In Del. For Using Seized Cuban Land

By **Jeff Montgomery**

Law360 (July 22, 2021, 2:32 PM EDT) -- The heirs and estates of Cubans whose bayside lands west of Havana were confiscated by the Castro government in 1960 have launched a federal suit in Delaware against Seaboard Corp., seeking triple damages for its use of a container port developed on the seized property.

Odette Blanco de Fernandez,, the lone surviving member of the land-owning families who fled Cuba after the 1960 seizure, and relatives and estate representatives made the claims Wednesday under the 1996 Helms-Burton Act, seeking to recover from those shippers "trafficking" in confiscated property. It was the latest in a growing number of actions invoking the federal law and recovery right.

Targeted in the litigation, filed under the alternatively named Cuban Liberty and Democratic Solidarity (Libertad) Act, are multiple calls by Seaboard-related vessels on the Mariel Special Economic Zone, or Zona Especial de Desarrollo Mariel, developed along the west side of Mariel Bay starting in 2013.

Lands for the now-sprawling bayside container terminal were once the property of the family of Blanco and others with ties to the property, which was granted a 70-year lease in 1955 for docks, warehouses and port facilities, according to the suit. Five years later, however, the lands were confiscated and the former owners fled.

Congress enacted a right of recovery in 1996, but "the ability of any potential plaintiff to bring a private right of action for Title III violations had been suspended by several presidents," the lawsuit noted. That suspension lapsed in May 2019, when then-President Donald Trump declined to renew it.

Since passage of Helms-Burton, the suit said, "it has been clear that companies doing business with Cuba or in Cuba incurred potential liability" if their business knowingly made use of confiscated property.

Blanco's suit, which also named her as Odette Blanco Rosell, asserted that Seaboard began the first of "many" calls on the Port of Mariel one week after President Trump allowed the suspension of Helms-Burton to lapse. At least 28 other voyages followed, according to the complaint, involving five different vessels.

"Defendant Seaboard and non-party Seaboard Marine knowingly and intentionally directed the trafficking vessels to call at the Port of Mariel to engage in commercially beneficial transactions and other commercial activities," the suit said.

Under Helms-Burton, violators are liable for damages to be determined by a special master, or for the fair value of the property, or the value when confiscated, plus interest.

The suit against Seaboard also invoked a provision for treble damages in cases where those named continued to violate the act after notification.

Those who sued requested a jury trial as well as prejudgment interest and attorney's fees.

Dozens of similar cases have been filed around the country focused on confiscated property use,

including three by those involved in the Delaware suit targeting Seaboard and its affiliates, A.P. Moller-Maersk A/S and affiliated companies and Crowley Maritime Corp.

Federal court records show that Carnival Corp., Royal Caribbean, MSC Cruises and Norwegian Cruise Lines have been sued by the Havana Docks Corp. in Florida for cruise ship calls on long-ago confiscated port facilities in Havana.

In addition, North American Sugar Industries Inc. has filed multiple suits under the same law, including those seeking damages for use of port facilities east of Havana for delivery of equipment used in development of a wind-energy farm.

Attorneys for Blanco and for Seaboard did not immediately respond to requests for comment.

Odette Blanco de Fernandez and the others who sued are represented by Michael L Vild and Christopher P. Simon of Cross & Simon LLC and David A. Baron, Melvin White and Laina C. Lopez of Berliner Corcoran & Rowe LLP.

Information on the attorneys representing Seaboard was not immediately available.

The case is Odette Blanco de Fernandez, et al, v. Seaboard Corp., case number 1:21-cv-01052, in the United States District Court for the District of Delaware.

--Editing by Alex Hubbard.