

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL DIVISION**

B & B ENTERPRISE GROUP LLC	:	
Plaintiff	:	
v.	:	NO: CV- 2022-007985
	:	
DELAWARE COUNTY TAX CLAIM	:	Premises: 602 Edgmont Ave
BUREAU	:	Chester, PA 19013-5324
Defendant	:	
	:	
JAMIEL COTTMAN	:	FOLIO 49-04-00506-00
Intervenor	:	

Nolan Finnerty, Esquire and Eric B Smith, Esquire, for Plaintiff
Sherry Eyer, Esquire, for Defendant Delaware County Tax Claim Bureau
Michael Dignazio, Esquire for Jamiel Cottman

ORDER GRANTING MOTION TO SET ASIDE TAX SALE AND VOIDING THE SALE

AND NOW, this 16 day of May 2024, upon consideration of the Petition to Set Aside Upset Tax Sale Of The Premises 602 Edgmont Ave, Chester, PA 19013-5324 FOLIO 49-04-00506-00, filed on October 25, 2022, and the Hearing held on March 25, 2023, the testimony, Plaintiff's Exhibit-1 through Plaintiff's Exhibit-8, Tax Claim Bureau Exhibits, TCB- 1 through TCB 23, Exhibit R-1 and the Proposed Findings of Facts, Conclusions of Law and Proposed Orders submitted by the Parties, it is hereby ORDERED and DECREED that the Petition to Set Aside the Tax Sale, is hereby **GRANTED** for the following reasons:

A. Background

1. Petitioner is B&B Enterprise Group LLC, ("B&B"), is a Pennsylvania Limited Liability Corporation with a registered and mailing address of 1609 Edgmont Avenue, Chester, PA 19013-5324. Petitioner was the owner of the Property in question prior to the Upset Tax Sale.
2. On August 26, 2022 a Bidder Application with Intervenor's name, Jamiel Cottman and the names Cottman Group Enterprises LLC and Erieka Cottman are listed as

bidders as members and persons with ownership interest in the Cottman Group Enterprises LLC, on the Application. *See* Plaintiff's Exhibit P-3.

3. On September 18, 2022 the entity, Cottman Group Enterprises LLC, filed an authorization with the Delaware County Tax Claim Bureau which indicated Intervenor was authorized to bid on their behalf. *See* Plaintiff's Exhibit P-1.
4. Intervenor filed an Affidavit of Bidder with the Delaware County Tax Claim Bureau ahead of the Tax Claim Sale. *See* Plaintiff's Exhibit, P-4.
5. The Property in question was sold at an Upset Tax Sale on September 22, 2022 to Cottman Group Enterprises, LLC.
6. On October 25, 2022 Petitioner/Plaintiff filed a Petition to Set Aside Tax Sale, the Petition was served on Intervenor on November 7, 2022.
7. On November 14, 2022 a Petition to Intervene was filed by Jamiel Cottman, there was no Response filed, on January 31, 2023 the Court granted intervention. Following a Hearing on that issue, the undersigned issued on September 12, 2023 Denying the Motion of Plaintiff to Strike the Bidder Certification and Supporting Affidavit for Non-Compliance and to Vacate the Court's Order of January 31, 2023.
8. In the Petition to Set Aside the Upset Tax Sale, Petitioner seeks Court intervention to overturn the Upset Tax Sale to Intervenor, as Petitioner alleges that they had no knowledge of the sale prior to the sale occurring, in violation of the Real Estate Tax Sale Law.
9. The arguments at the, March 25, 2024 Hearing surrounded the fact that there were mailings that were consistently returned to the Delaware County Tax Bureau and Petitioner argues that the address to which they were mailed "does not exist;" arguing, therefore, there were violations of the Real Estate Tax Sale Law.
10. At the March 25, 2024 Hearing, the Court heard testimony¹ from Janine Heinlein and John Bush, III on behalf of and as the owner and member of, B&B Enterprise Group LLC.

¹ This Court notes Anita Bostwick was called to testify, was sworn but provided no testimony of importance as the document, Plaintiff's Exhibit, P-1 that she identified as a Board of Assessment Tax map which she was called to purportedly testified regarding, was Stipulated to by Counsel. *See* N.T., March 25, 2024, pgs. 71-74.

B. Findings of Facts

1. Janine Heinlein the upset sales coordinator, on behalf of the Delaware County Tax Claim Bureau, testified as to the Notices mailed to the address on file with the Delaware County Tax Claim Bureau and to the Notices that were posted by a member of the Delaware County Sheriff's Office. Ms. Heinlein has been the upset sale coordinator for Delaware County for the last eight and a half years and has been a tax claim coordinator since 2017.
2. This Court notes that the Notices both mailed and posted were only in relation to the unpaid city taxes for the tax year 2020.
3. The testimony of Ms. Heinlein was that the Delaware County Tax Claim Bureau records show that the "Notice of Return and Claim" was sent before June 1, 2021, normally mid-March to early April, via the United States Postal Service ("USPS"), via certified mail. During her testimony Ms. Heinlein was able to authenticate that the mailings sent to Plaintiff. These documents demonstrate for themselves that the mailings were returned to the Delaware County Tax Bureau, on or about June 1, 2021, via the same envelope in which they were mailed, with the address of 602 Edgmont Avenue, Chester PA 19013 via certified mail with a USPS return label stating "RETURN TO SENDER NO SUCH NUMBER UNABLE TO FORWARD" and with the green sheet not having been signed. *See Exhibits, TCB-1, TCB-2 and N.T, March 25, 2024, pgs. 14, Ins. 8-15 and 26, Ins. 11-14.*
4. The copy of the returning claim to the Delaware County Tax Claim Bureau demonstrates to the Court that as of June 1, 2021, there was no notice to Plaintiff, the owners of the Property of the tax delinquency/deficiency. *N.T, March 25, 2024, p. 14, Ins. 13-15.*
5. Ms. Heinlein further testified that time as the Notices were returned to the sender, the Delaware County Tax Claim did not make any attempts to provide Notice to the taxpayer. *N.T, March 25, 2024, p. 27, Ins. 5-7.*
6. Ms. Heinlein testified that the next efforts of the Delaware County Tax Claim Bureau occurred on December 18, 2021, when a member of the Delaware County Sheriff's Department, Lt. Kevin Scanlan, posted a Notice to the Property located at 602 Edgmont Avenue, Chester PA 19013 at 9:04 AM. *See N.T, March 25, 2024, pgs. 14-15; TCB-3(the Notice) and TCB-4(Delaware County Tax Claim Bureau Affidavit for Posting Premises).*
7. Despite having the first certified receipts returned to the Delaware County Tax Claim Bureau of the "Notice of Return and Claim" to the 602 Edgmont Avenue, Chester PA 19013, it was the testimony of Ms. Heinlein was that the Delaware County Tax Claim Bureau records show that the "Tax Sale Notice" was sent to

the same 602 Edgmont Avenue, Chester PA 19013 address sometime before July 19, 2022. *See* N.T, March 25, 2024, pgs. 18-19.

8. During her testimony Ms. Heinlein was able to authenticate that the mailings of the "Tax Sale Notice" were sent to Plaintiff at that 602 Edgmont Avenue, Chester PA 19013 address. These documents demonstrate for themselves that the mailings were returned to the Delaware County Tax Bureau, on or about July 19, 2022, via the same envelope in which they were mailed, with the address of 602 Edgmont Avenue, Chester PA 19013 via certified mail with a USPS return label stating "RETURN TO SENDER NO SUCH NUMBER UNABLE TO FORWARD" and with the green sheet not having been signed. *See* Exhibits, TCB-8, TCB-9 and N.T, March 25, 2024, pgs. 18-19.
9. In August of 2022, the Delaware County Tax Claim Bureau published Notice of the Sale a local Chester, Pennsylvania Paper, Spirit Paper on August 17, 2022, this Court notes that the address for this lists 602 Edgmont Avenue, Chester PA 19013 for this Folio number. *See* TCB-6.
10. Additionally, the Notice was also published in the Delaware County Legal Journal on August 19, 2022 and this Court notes that the address for this lists 602 Edgmont Avenue, Chester PA 19013 for this Folio number. *See* TCB-7.
11. Ms. Heinlein testified that the next efforts of the Delaware County Tax Claim Bureau occurred on August 22, 2022, when a member of the Delaware County Sheriff's Department, Rick Bailey, posted a Notice to the Property located at 602 Edgmont Avenue, Chester PA 19013 at 1:15PM. *See* N.T, March 25, 2024, p. 21; TCB-10(the Notice) and TCB-11(Delaware County Tax Claim Bureau Affidavit for Posting Premises).
12. The testimony of Ms. Heinlein was that the Delaware County Tax Claim Bureau records show that the "Final Notice" was sent before September 6, 2022, via the United States Postal Service ("USPS"), via certified mail. Again, these documents demonstrate for themselves that the mailings were returned to the Delaware County Tax Bureau, on or about September 6, 2022, via the same envelope in which they were mailed, with the address of 602 Edgmont Avenue, Chester PA 19013 via certified mail with a USPS return label stating "RETURN TO SENDER NO SUCH NUMBER UNABLE TO FORWARD" and with the green sheet not having been signed. *See* Exhibit, TCB-12 and N.T, March 25, 2024, p. 21, Ins. 5-12.
13. The copy of the returning claim to the Delaware County Tax Claim Bureau demonstrates to the Court that as of September 6, 2022, there was no notice to Plaintiff, the owners of the Property of the tax delinquency/deficiency or of the Upset Tax Sale that was to occur on September 22, 2022.

14. Ms. Heinlien testified that that Delaware County Tax Claim has a policy, that even if the mailing address is returned to the Office, which would indicate that address is not a valid address, the Office would continue to mail to the invalid address if that address is one that is contained in a file with the Board of Assessment and with the Recorder of Deeds. *See* N.T. March 25, 2024, p. 29, Ins. 10-24; see also, TCB-16- TCB-21 and TCB-22.
15. Again, consistent with the Delaware County Tax Claim Bureau's policy, a clerk in the Bureau attempted to conduct an internet search to identify a telephone number for the owner of the Property in question. In this case, the clerk conducted a search via "True People" to identify a phone number for the owner but the clerk who made the call "was not successful." *See* N.T., March 25, 2024, p.23, Ins. 16--18; *see* Exhibits, TCB-13, TCB-14, TCB-15.
16. This Court also notes that the clerk did not attempt to find the current owner of the Property via a True People; rather, the clerk used the prior owner of the Property's name for that search. *See* TCB-15.
17. However, this Court heard argument and testimony that search would have not been fruitful, as the owner of the Property in question was a "LLC" and an LLC cannot be identified on a True People Search.
18. Ms. Heinlein further testified that when the three mailings with the address 602 Edgmont Chester, Pennsylvania 19013 were returned as undeliverable and since the owner was listed as an LLC "the business practice is, you search per the location of the property;" to ascertain the address for the Property or B&B; however, Ms. Heinlien was unsure of why that did not occur in this case. N.T. March 25, 2024, p. 48, Ins. 2-14 and p. 27, Ins. 5-7 and p. 49, Ins. 1-10.
19. Ms. Heinlein testified that as part of her duties is to mail the notices to the parties and that she appears in the post office to go through her list of names and addresses for the upset sale and that she typically spends over an hour there with the postal workers and while at the Post Office, she did not inquire as to whether or not 602 Edgmont Chester, Pennsylvania 19013 was a valid address. N.T. March 25, 2024, p. 59, Ins. 2-13.
20. The Upset Tax Sale occurred on September 22, 2022 with Intervenor as the successful bidder. The upset sale price for the Property was \$4,995 and the successful bid amount was \$15,000. *See* N.T. March 25, 2024, p. 10, Ins. 17-25 and p. 11, Ins. 1-7.
21. Ms. Heinlein testified that she sent out a copy of the sold notice via certified mail, at the address, 602 Edgmont Chester, Pennsylvania 19013, which was returned back to the Delaware County Tax Claim Bureau unclaimed and unopened. The mailing was sent on October 4, 2022 and sent back to the

Delaware County Tax Claim Bureau on November 9, 2022 with the label "RETURN TO SENDER VACANT UNABLE TO FORWARD". See N.T., March 25, 2024, p. 56, lns, 13-18; TCB-23.

22. This Court heard the testimony of John Bush, III who identified himself as the owner of B & B Enterprise Group, LLC and that B & B Enterprise Group, LLC has a mailing address and that in fact, Mr. Bush and his wife have a residence at 1609 Edgmont Avenue, Chester, PA 19013. See N.T., March 25, 2024 p. 86, lns. 17-20.; and Plaintiff's Exhibit, P-5.
23. Mr. Bush further testified that B & B Enterprise Group, LLC, is incorporated in the Commonwealth of Pennsylvania and has been since 2015 and in corroboration of the testimony Plaintiff's Exhibit, P-4 was entered into evidence which demonstrated that the Certificate of Organization of Domestic Limited Liability Company was filed on August 26, 2015 and lists himself as the organizer at the address of 1609 Edgmont Avenue, Chester, PA 19013. See Plaintiff's Exhibit, P-4.
24. John Bush testified that Plaintiff, B & B Enterprise Group, LLC, paid the property taxes for this Property, 602 Avenue of the States, the Delaware County Real Estate Tax Bills for 2018, 2019 and 2020 with checks issued by B&B Enterprise bearing its registered mailing address of 1609 Edgmont Ave., Chester, PA 19013. See N.T., March 25, 2024, p. 82, lns. 22-25 and p. 83, lns. 3-9; See Plaintiff's Exhibit, P-3.
25. Mr. Bush credibly testified that for the years prior to 2020 that he owned the Property, the years 2018 and 2019, he never received a tax bill in the mail; however, he would just go in person to pay those taxes. See N.T., March 25, 2024, pgs. 111-112.
26. This Court notes that that Mr. Bush testified that he himself ran an internet business search of B & B Enterprise Group, LLC, as the Delaware County Tax Claim Bureau could have done with the Pennsylvania Department of State and the search results demonstrates and corroborates that B & B Enterprise Group, LLC's initial filings of organization occurred in August 26, 2015 and that since that filing, and until the search was run on May 17, 2023, the address of B & B Enterprise Group, LLC 1609 Edgmont Ave., Chester, PA 19013. See Plaintiff's Exhibit, P-6 and See N.T., March 25, 2024, pgs. 88-89.
27. This Court was presented with evidence that the City of Chester, the tax collector issued for 2020 a "Property tax bill" also labeled "REAL ESTATE/RUBBISH FEE" listing B & B Enterprise Group, LLC as the Property Owner with a Property address of 602 Avenue of the States, Chester, PA 19013. See Plaintiff's Exhibit, P-2.

28. The parties Stipulated that Plaintiff's Exhibit, P-1, was the tax map at the time of the sale of the Property in question. A review of Plaintiff's Exhibit, P-1 demonstrates that lot 20, was identified as the Property in question and that the front of the building is located on "Avenue of the States."
29. This Court notes that a review of Plaintiff's Exhibit, P-1, does not reveal any other identifying street names.
30. Plaintiff also presented to the Court an aerial map of the immediate area, marked as Plaintiff's Exhibit, P-8, which also shows that the street in question is labeled as "Avenue of the States." See Plaintiff's Exhibit, P-8.
31. This Court was also presented with a photograph showing the front of the Property in question. This photograph corroborated the testimony of Mr. Bush that the blue and white street sign, listing the street as "Avenue of the States" is just about fifteen feet from the Property. See Plaintiff's Exhibit, P-7.
32. Mr. Bush credibly testified that specifically remembered December 18, 2021, it was the day after his Wife's last day of her first semester of law school. He recalled being at the Property late that evening and sleeping at the Property on December 17, 2021. Mr. Bush's testimony was credible that the next morning, December 18, 2021, he exited the front of the Property to take out the trash, then put down the business' gate, then he and his Wife exited the rear of the building and then drove past the front of the building to ensure the building was properly secured before proceeding home. At no point, during this did he see the posting that purportedly occurred at 9:04AM and he was credible in his testimony that they exited the Property at 10:30AM. See N.T., March 25, 2024, pgs. 93, lns 15-25 through p. 95, ln. 19.
33. This Court notes that Mr. Bush also provided testimony that during 2021 and 2022, that he walked to and from and that he was present at the location of B & B Enterprise Group, LLC, multiple times a week as he lives only ten (10) blocks away.
34. Mr. Bush credibly testified that at no time did he see any Posting on the Property by the Delaware County Sheriff's Department.
35. Mr. Bush also credibly testified that from August 25, 2022 and through the date of the tax sale, September 22, 2022, he was at 602 Avenue of the States approximately six days a week from 7:30 AM to approximately 4:00 PM, working on or supervising the improvements to the façade of the Property. See N.T., March 25, 2024, pgs. 96-99.
36. Specifically, Mr. Bush credibly testified that "from the time of the façade project started, through at least the sale, I was working there six days a week. I get

down there about 7:30 a.m., leave at approximately 4:00, then I would go home, shower, and I would come back down and play pool across the street at the social lounge I mentioned that's underneath the bridge." N.T. March 25, 2024, pgs. 97-98.

37. Mr. Bush's credible testimony was that he did not see any posting on the Property, which disputes the Affidavit presented by the Intervenor completed by Sheriff Bailey's affidavit. *See* N.T., March 25, 2024, p.98, Ins. 14-17; *see also* TCB-11.
38. This Court notes that neither member of the Sheriff's Department was called to testify at the Hearing, nor was there any photographic evidence entered into the record which demonstrates the location of the Posting on the Property.
39. Mr. Bush also provided credible testimony that there is an Edgmont Avenue in Chester, Pennsylvania; however, that street is one block down from Avenue of the States and is made up by mostly vacant properties. *See* N.T. March 25, 2024, p.103, Ins. 2-17.
40. There was credibly and unrefuted testimony from Mr. Bush, that Edgmont Avenue terminates at the train tracks depicted in Plaintiff's Exhibit, P-8, and further that a pedestrian walk way but not a roadway, connects the 600 block of Avenue of the States to the 500 block of Edgmont Avenue. N.T. March 25, 2024, pgs. 102-104.
41. This Court notes that evidence was presented that records with the Office of the Recorder demonstrate that the prior Deed shows that the Property's Delaware County Tax Parcel Folio No. 49-04-00506-00, a Deed was executed by Herbert Canter conveying "602 Avenue of the States" to Doo Pyo Lee and Soon Rae Lee on June 28, 1991. *See* N.T., March 25, 2024, p. 114, Ins. 2-6 and *see* Intervenor's Exhibit, R-1.

C. Conclusions of Law

1. Ms. Heinlien testified that the Property in question had taxes that were delinquent for the year 2020 only and the amount owed was \$4,995.
2. The statutory procedures for the conduct of an Upset Tax Sale are found in Section 602 of the Real Estate Tax Sale Law and requires the tax claim bureau to provide three separate types of notice in advance of an upset tax sale: (1) publication at least 30 days prior to the sale; (2) direct notification to each owner by certified mail at least 30 days prior to the sale; and (3) posting of the property at least 10 days prior to the sale. 72 P.S. §5860.602.

3. The notice requirements required by Real Estate Tax Sale Law are “mandatory and must be strictly construed. One of these mandatory requirements is a tax claim bureau’s obligation to make reasonable efforts to find an owner pursuant to Section 607.1 when mailed notice is returned or when there is doubt that the owner received such notice.” ***In re Sale of Real Estate by Lackawanna County Tax Claim Bureau***, 255 A.3d 619, 628 (Pa. Cmwlth. 2021).
4. When there is doubt that the owner received the Notice of the Tax delinquency or tax sale, the Real Estate Tax Sale Law specifically requires Additional notification efforts, and states as follows:

(a) When any notification of a pending tax sale or a tax sale subject to court confirmation is required to be mailed to any owner, ..., and such mailed notification is either returned without the required receipted personal signature of the addressee or under other circumstances raising a significant doubt as to the actual receipt of such notification by the named addressee or is not returned or acknowledged at all, then, before the tax sale can be conducted or confirmed, the bureau must exercise reasonable efforts to discover the whereabouts of such person or entity and notify him. The bureau's efforts shall include, but not necessarily be restricted to, a search of current telephone directories for the county and of the dockets and indices of the county tax assessment offices, recorder of deeds office and prothonotary's office, as well as contacts made to any apparent alternate address or telephone number which may have been written on or in the file pertinent to such property. When such reasonable efforts have been exhausted, regardless of whether or not the notification efforts have been successful, a notation shall be placed in the property file describing the efforts made and the results thereof, ...

72 P.S. § 5860.607a(a).

5. Section 607a(b) of the Real Estate Tax Sale Law, “[t]he notification efforts required by subsection (a) shall be in addition to any other notice requirements imposed by this act.” 72 P.S. § 5860.607a(b).
6. Furthermore, after a tax sale occurs, a Tax Claim Bureau must give the now owner of the property, notice of the sale of their property and of the opportunity to challenge that sale. Section 607(a.1)(1) of the Real Estate Tax Sale Law provides:

Notice shall be given by the bureau within thirty (30) days of the actual sale to each owner by United States certified mail, restricted delivery, return receipt requested, postage prepaid, to each owner at his last known post office address as determined in section 602(e)(2) that the property was sold and that the owner may file objections or exceptions with the court relating to the regularity and procedures followed during the sale no later than thirty (30) days after the court has made a confirmation nisi of the consolidated return.

72 P.S. §5860.607(a.1)(1).

7. The purpose of the Real Estate Tax Sale Law is "for the collection of taxes and is not intended to create investment opportunities for others, or to strip taxpayers of their properties." ***Brodhead Creek Assocs., LLC v. Cty. of Monroe***, 231 A.3d 69 (Pa. Commw. Ct. 2020) citing ***Jenkins v. Fayette County Tax Claim Bureau***, 176 A.3d 1038, 1043 (Pa. Cmwlth. 2018); ***In re Sale of Tax Delinq. Prop. on October 19, 2020***, 308 A.3d 890, 893 (Pa. Cmwlth. 2024).
8. The Appellate Courts have further held that, the Real Estate Tax Sale Law's "notice provisions are to be strictly construed, and... strict compliance with such provisions is necessary to guard against deprivation of property without due process." ***Donofrio v. Northampton Cty. Tax Claim Bureau***, 811 A.2d 1120, 1122 (Pa. Commw. Ct. 2002).
9. A trial court, during a Hearing or Bench Trial, has exclusive authority to weigh the evidence, make credibility determinations and draw reasonable inferences from the evidence presented. ***Barylak v. Montgomery Cnty. Tax Claim Bureau***, 74 A.3d 414, 417 (Pa. Cmwlth. 2013) citing ***In re Sale of Real Estate by Lackawanna County Tax Claim Bureau***, 986 A.2d 213, 216 (Pa. Cmwlth. 2009).
10. When mailed notification of a tax sale "is either returned without the required receipted personal signature of the addressee or under other circumstances raising a significant doubt as to the actual receipt of such notification by the named addressee or is not returned or acknowledged at all, then, before the tax sale can be conducted or confirmed, the Bureau must exercise reasonable efforts to discover the whereabouts of such person or entity and notify him or her." ***Ruffners v. Beeghly (In re Tax Sale of Real Prop. Situated in Jefferson Twp.)***, 828 A.2d 475, 479 (Pa. Commw. Ct. 2003).
11. The United States Supreme Court considered the issue of notice sent back via mail returned to sender in the case of ***Jones v. Flowers*** and found that

because “[t]he state had good reason to suspect when the notice was returned that the owner was no better off than if the notice had never been sent,” further reasonable steps were necessary to try to contact the owner of record before proceeding to tax sale. In that case, no further steps were taken. **Jones v. Flowers**, 547 U.S. 220, 126 S. Ct. 1708 (2006).

12. Ms. Heinlien, the Upset Sale Coordinator for Delaware County Tax Claim Bureau provided credible testimony that all mailings were sent to 602 Edgemont Avenue, Chester, PA 19013 for the delinquent taxes and related to the tax sale of Plaintiff's Property.
13. In the case *sub judice*, this Court was provided with credible testimony and evidence from Ms. Heinlien of the Delaware County Tax Claim Bureau, that all mail sent to the owner of the Property was “Returned to Sender” as undeliverable, “NO SUCH NUMBER UNABLE TO FORWARD”. See TCB-8.
14. The evidence in the Delaware County Tax Claim Bureau's own file, demonstrates that the United States Post Office informed the Delaware County Tax Claim Bureau that that address for the Property/Folio number was incorrect, when the Notice of Tax Sale was returned “RETURN TO SENDER NO SUCH NUMBER UNABLE TO FORWARD.” See TCB-8.
15. This Court heard no testimony that the Delaware County Tax Claim Bureau strictly complied with the Notice required of the Real Estate Tax Sale Law. There was no proper attempt to ascertain the proper owner's address or telephone number. The search via True People was not a valid or viable search for an LLC, the owner of the Property in question. This Court notes had the Delaware County Tax Claim Bureau conducted a simple search via the Pennsylvania Department of State website, akin to the True People Search, they would have discovered a valid and proper address for the owner of the Property and this Upset Tax Sale could have been avoided.
16. This Court was provided with credible evidence and testimony that the address on file with the Delaware County Tax Claim Bureau, 602 Edgemont Avenue, Chester, PA 19013 is not the proper and valid address for the Folio 49-04-00506-00, in question and in fact that address does not actually exist.
17. This Court heard credibly testimony and received credible evidence that the proper address for the Folio 49-04-00506-00, is 602 Avenue of the States, Chester, PA 19013. This Court notes that this was corroborated in part by the Real Estate Tax/Rubbish Fee sent to Plaintiff by the City of Chester. See Plaintiff's Exhibit, P-2.

18. In cases where the notices sent to an address are never delivered, there can be implied actual notice to the property owner of an impending tax sale which renders strict compliance with other statutory requirements for notice waived. This implied notice can be accomplished by the posting of Notices on the Property in question. ***Cruder v. Westmoreland Cty. Tax Claim Bureau***, 861 A.2d 411, 416 (Pa. Commw. Ct. 2004).
42. When posting the notice to a property, the Real Estate Tax Sale Law's notice requirement, requires the notice be posted so that it can be seen by the public, is conspicuous, and in such a manner to attract the attention of an ordinary passerby. ***Schooley v. Beaver Cnty. Tax Claim Bureau***, 4 A.3d 797, 800–01 (Pa.Cmwlt. 2010); *citing Ban v. Tax Claim Bureau of Washington Cnty.*, 698 A.2d 1386 (Pa.Cmwlt. 1997); *see also O'Brien v. Lackawanna Cnty. Tax Claim Bureau*, 889 A.2d 127 (Pa.Cmwlt.2005).
43. It has been long held that in Pennsylvania that, in the absence of fraud, a Sheriff's return of service, which is full and complete on its face, is conclusive and immune from attack by extrinsic evidence. ***Hollinger v. Hollinger***, 416 Pa 473, 206 A.2d 1 (1965).
44. The ***Hollinger*** Court, however, was clear, that the conclusive nature of the Sheriff's return of service, is solely limited to the facts contained on the return. ***Id.*** at 477, 206 A.2d at 3.
45. This Court heard the testimony of Ms. Heinlien that the Delaware County Tax Claim Bureau contained Affidavits from two separate Delaware County Sheriff's. Specifically, that the Notice of the tax deficiency was posted on the front of the premises, on December 18, 2021, by Lt. Kevin Scanlan, at **602 Edgmont Avenue, Chester PA 19013** at 9:04 AM. and that the Notice of Upset Tax Sale was posted on August 22, 2022, by Officer Rick Bailey, at **602 Edgmont Avenue, Chester PA 19013**. See N.T, March 25, 2024, pgs. 14-15 and p. 21; TCB-3(the Notice) and TCB-4(Delaware County Tax Claim Bureau Affidavit for Posting Premises) TCB-10(the Notice) and TCB-11(Delaware County Tax Claim Bureau Affidavit for Posting Premises).
46. Therefore, this Court, in keeping with the holding in ***Hollinger*** does not doubt nor cannot doubt, the Affidavits of either Sheriffs contained in TCB-4 or TCB-11; rather, this Court notes that the Sheriff's posted the Notices of the Tax delinquency and Tax Sale to the incorrect locations that are listed on TCB-3 and TCB-10, which accompanied their Affidavits.
47. The evidence is clear therefore, that the Postings were made to a structure located at 602 Edgmont Avenue, Chester PA 19013, which is not the address associated with this Property, the address of which should have been correctly

identified by the Delaware County Tax Claim Bureau as **602 Avenue of the States, Chester PA 19013.**

Therefore, this Court determines that the September 22, 2022 tax sale of 602 Avenue of the States, Chester, PA 19013, folio 49-04-00506-00, is **SET ASIDE and**

VOID. It is further ORDERED and DECREED as follows:

1. Plaintiff has twenty days from the date of this Order to make current the 2020 Taxes in the amount of \$4,995.
2. Plaintiff has twenty days from the date of this Order to ensure that the address on file with the Delaware County Tax Bureau for this Property/Folio 49-04-00506-00 is 602 Avenue of the States, Chester, PA 19013.

BY THE COURT:

Barry C. Dozor, J.

