

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Gang Luo,	:	
Appellant	:	
	:	
v.	:	No. 411 C.D. 2024
	:	
Delaware County Tax Claim Bureau	:	Submitted: July 24, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION
BY JUDGE McCULLOUGH

FILED: October 13, 2026

Gang Luo (Taxpayer), proceeding *pro se*, appeals from the December 6, 2023 order of the Court of Common Pleas of Delaware County (trial court), which dismissed his Petition to Set Aside Upset Tax Sale (Petition). The trial court concluded that the Delaware County Tax Claim Bureau (Bureau) complied with all provisions of the Real Estate Tax Sale Law (RETSL)¹ governing notice of the upset sale. After review, we reverse.

I. FACTUAL AND PROCEDURAL BACKGROUND

Taxpayer is the owner of 113 West 23rd Street, Chester, Pennsylvania (Property).² On September 22, 2022, the Bureau exposed the Property to upset sale in

¹ Act of July 7, 1947, P.L. 1368, *as amended*, 72 P.S. §§ 5860.101-.803.

² Taxpayer is the owner of a property located at 906 Central Avenue, Chester, Pennsylvania 19013 (906 Central Avenue Property), which was also sold at the September 22, 2022 upset sale. The upset sale of the 906 Central Avenue Property is the subject of a separate appeal in this Court, docketed at No. 467 C.D. 2024.

order to collect delinquent City of Chester real estate taxes for the tax year 2020. The upset sale price was \$5,741.³ Gerardo Ponce (Appellee) submitted the successful bid for \$28,000. Taxpayer filed his Petition, claiming that the Bureau failed to provide him with proper notice of the upset sale pursuant to Section 602(e) of the RETSL, 72 P.S. § 5860.602(e). Section 602(e) of the RETSL governs notice by mail and provides:

(e) In addition to [publication of the notice in a newspaper of general circulation and posting the notice at the property], similar notice of the sale shall also be given by the bureau as follows:

(1) At least thirty (30) days before the date of the sale, **by United States certified mail, restricted delivery, return receipt requested, postage prepaid, to each owner** as defined by this act.

(2) **If return receipt is not received from each owner** pursuant to the provisions of clause (1), then, at least ten (10) days before the date of the sale, similar notice of the sale shall be given to each owner who failed to acknowledge the first notice **by United States first class mail, proof of mailing, at his last known post office address** by virtue of the knowledge and information possessed by the bureau, by the tax collector for the taxing district making the return and by the county office responsible for assessments and revisions of taxes. **It shall be the duty of the bureau to determine the last post office address known to said collector and county assessment office.**

³ Under Section 605 of the RETSL, 72 P.S. § 5860.605, the upset price is the sum of all accrued taxes, tax liens, municipal claims, and statutory costs associated with the property. *See also, Pan Diners, Inc. v. Monroe County Tax Claim Bureau*, 337 A.3d 631 (Pa. Cmwlth. 2025).

(3) Each property scheduled for sale shall be posted at least ten (10) days prior to the sale.

72 P.S. § 5860.602(e) (emphasis added).

Taxpayer also alleged that the Bureau did not, as required by Section 607.1(a), 72 P.S. § 5860.607a(a),⁴ exercise reasonable efforts to discover his whereabouts after the Section 602 notices were returned as undeliverable. Section 607.1(a) provides:

When any notification of a pending tax sale or a tax sale subject to court confirmation is required to be mailed to any owner, mortgagee, lienholder or other person or entity whose property interests are likely to be significantly affected by such tax sale, 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, and the property may be rescheduled for sale or the sale may be confirmed as provided in this act.

⁴ Added by the Act of July 3, 1986, P.L. 351.

Id. § 5860.607a(a) (emphasis added). In addition to challenging notice, Taxpayer asserted that the tax sale violated his constitutional rights under the Takings Clause of the Fifth Amendment to the United States Constitution.⁵

The trial court held an evidentiary hearing on October 24, 2023. Appellee, who purchased the Property at the upset sale, was granted intervenor status by the trial court.

The Bureau’s Upset Sales Coordinator, Janine Heinlein, testified that, pursuant to Section 308 of the RETSL,⁶ the Bureau sent Taxpayer, by restricted delivery, a notice of return and claim, which provided Taxpayer with information regarding the amount of taxes and interest due on the Property, and advised him of the consequences of nonpayment. The notice of return and claim was sent to “Luo Gang, 498 Howellville Road, Berwyn, Pennsylvania 19312.” (Supplemental Reproduced Record (S.R.R.) at 6a.)⁷ The United States Postal Service green return receipt card was

⁵ The Takings Clause of the Fifth Amendment to the United States Constitution states: “Nor shall private property be taken for public use, without just compensation.” U.S. CONST. amend. V.

⁶ 72 P.S. § 5860.308 (Notice of filing of returns and entry of claim). Pursuant to Section 308, the tax claim bureau must provide notice of the return and entry of claim of real estate taxes by mail prior to July 31 of the applicable tax year. We note that, in his brief, Taxpayer argues that he “never received notice of the delinquent tax” and that the notice of return and claim was “returned without [the] addressee’s signature, except marked with COVID-19.” (Taxpayer’s Br. at 7-8.) However, the Bureau’s alleged failure to comply with the notice provision of Section 308 is not at issue in this case. Section 314(e) of the RETSL constitutes the exclusive remedy to challenge the lack of notice of tax claims. So, Taxpayer could not raise the issue by way of a petition to set aside brought under Section 607(d) of the RETSL, 72 P.S. § 5860.607(d).

⁷ Taxpayer’s Reproduced Record does not comply with Pennsylvania Rule of Appellate Procedure 2173, which requires that each page be numbered separately using Arabic numbers followed by a small a. *See* Pa.R.A.P. 2173. Thus, the page numbers referenced in this opinion reflect electronic pagination. We also note that Taxpayer incorrectly included the transcript of the hearing on the petition to set aside the upset sale of his 906 Central Avenue Property. Appellee included the correct transcript in the Supplemental Reproduced Record.

returned with the following information printed on the signature line: “Luo Gang COVID-19.” *Id.* at 12a. Ms. Heinlein explained that in her experience, that notation indicated that the mail carrier filled out the card.⁸ *Id.* at 12a-13a. On October 23, 2021, the Sheriff of Delaware County posted the Property with the notice of return and claim. *Id.* at 8a.

Turning next to the steps the Bureau took to provide the three different forms of notice of the impending upset sale required under Section 602 of the RETSL, Ms. Heinlein testified that on April 21, 2022, she mailed letters by First-Class Mail to 4,000 owners stating that if their taxes were not paid by July 1, 2022, their properties “will be prepped for the upset [] sale.”⁹ *Id.* at 11a. She admitted that the specific name and address of the property owner was not in the letter. *Id.* at 16a. This letter is not required by RETSL; however, Ms. Heinlein sends it to all delinquent property owners whose properties are up for sale as a “courtesy.” *Id.* at 14a-15a.

Ms. Heinlein testified that she sent Taxpayer a courtesy letter to the 498 Howellville Road address concerning delinquent taxes owed on the 906 Central Avenue Property. *Id.* at 24a-25a. She indicated that Taxpayer responded to that courtesy letter regarding that other property on May 10, 2022, by calling the Bureau, and speaking to someone on her staff about the upset sale of the 906 Central Avenue Property. *Id.* at 25a. Because Taxpayer responded to that courtesy letter, Ms. Heinlein believed the 498 Howellville Road, Berwyn address was a “good mailing address” for him. *Id.* at 21a.

⁸ See *Williams v. County of Monroe*, 303 A.3d 1098 (Pa. Cmwlth. 2023) (rejecting a return receipt containing the recipient’s printed name in the signature block and “Covid 19 RT 41” in the “received by” space as insufficient proof of notice by certified mail under Section 602(e)(1) of RETSL).

⁹ The April 21, 2022 courtesy letter was not moved into evidence at the hearing. It is not part of the Reproduced Record or the Supplemental Reproduced Record.

On August 3, 2022, the Bureau sent a Notice of Sale to Taxpayer to the 498 Howellville Road address, by certified, restricted delivery, pursuant to 72 P.S. § 5860.602(e)(1), informing him that the Property would be exposed to upset sale if arrangements to pay the delinquent taxes were not made. This Notice of Sale was returned to the Bureau and marked “unclaimed.” *Id.* at 9a, 20a.

The Bureau then, pursuant to 72 P.S. § 5860.602(a), published the notice of sale for three consecutive weeks in the Chester Spirit on August 17, 2022, the Philadelphia Inquirer on August 18, 2022, and the Delaware Legal Journal on August 19, 2022. *Id.* at 17a.

On August 26, 2022, the Delaware County Sheriff’s Office physically posted the Notice of Sale on the Property pursuant to 72 P.S. § 5860.602(e)(3). *Id.* at 10a.

On August 29, 2022, the Bureau mailed Taxpayer a final 10-day Notice, by First-Class Mail to the 498 Howellville Road address. *Id.* The Final Notice was not returned as undeliverable. *Id.* at 10a.

On cross-examination, Ms. Heinlein was asked if the Bureau undertook any additional efforts to locate Taxpayer after the Notice of Sale was returned to the Bureau marked “unclaimed.” Ms. Heinlein testified that the file reflected that “a few searches were done” by a co-worker in her office. *Id.* at 22a. The file reflected that a phone number was found for Taxpayer “under Spokio.” *Id.* She did not indicate that anyone called the phone number. Ms. Heinlein said she checked the Board of Assessment’s records, which had the same mailing address for Taxpayer. *Id.* at 24a. She did not check for any additional addresses or contact information through any other source, including the internet because it was her “belief that we had a good mailing address.” *Id.* She testified in this regard, as follows:

Q. Did you perform any additional efforts outside of the sending of the Tax Sale Notice and the posting of the property?

A. The courtesy letter was mailed, and **we knew we had a good mailing address** per the conversation he had with a co-worker on another property that was also sold.

* * *

A. Again, **I knew I had a good mailing address** per the other property that was also listed at the time of tax sale.

Id. at 21a, 23a-24a (emphasis added).

In response to the evidence offered by the Bureau, Taxpayer testified that he owned the Property for 10 years. He explained it is a single-family house, and he has a tenant living there. *Id.* at 34a. He visited the Property approximately once a month for maintenance purposes and to check on it. *Id.* at 35a-36a. Taxpayer stated that his tenant never advised him that the Property was posted by the Bureau. *Id.* at 37a.

Regarding his mailing address, Taxpayer confirmed that 498 Howellville Road is his personal residence. *Id.* at 39a. However, he explained that he did not live there for the majority of 2022 because he had been hospitalized for a leg injury from March 2022 through May 2022 and then moved into a senior-living house with his elderly parents to take care of them. *Id.* at 39a-40a. He denied receiving any formal notice regarding the delinquent taxes and of the impending upset sale of the Property. *Id.* at 40a. According to Taxpayer, the first time he learned that the Property was sold was on October 1, 2022, when he went to the Bureau to inquire about the upset sale of another property he owned. *Id.* at 38a. He admitted he received the Bureau's courtesy letter that was mailed concerning another property he owned, and that he called the Bureau after he received that letter. *Id.* at 40a.

On December 6, 2023, the trial court entered an order denying Taxpayer's Petition. It found Ms. Heinlein's testimony to be credible and concluded that the Bureau established that it complied with the notice requirements of the RETSL. The trial court found Taxpayer's testimony that he was not aware of the sale not to be credible. Taxpayer filed a notice of appeal on January 11, 2024.¹⁰

On appeal,¹¹ Taxpayer raises 11 issues,¹² which we rephrase for clarity: (1) whether the Bureau complied with notice and additional efforts requirements set

¹⁰ Taxpayer originally erroneously appealed to the Superior Court, which transferred the matter to this Court on April 4, 2024.

¹¹ Our review in tax sale appeals "is limited to determining whether the trial court abused its discretion, rendered a decision with a lack of supporting evidence, or clearly erred as a matter of law." *Plank v. Monroe County Tax Claim Bureau*, 735 A.2d 178, 181 n.6 (Pa. Cmwlth. 1999).

¹² The issues as set forth in the Statement of Questions Involved are (*verbatim*):

1. Was Appellant ever aware of an unpaid 2020 city tax of \$1,327 that could cause an upset tax sale of his property since he had always otherwise fully paid all his city, county and school taxes?
2. Did Appellee sell the subject property at an Upset Tax Sale having effective and minimally required service of the notice?
3. Did Appellee violate the property owner's Due Process rights without effectively serving notice to Appellant and ever obtain Appellant's signature to be certain that Appellant was properly notified of the pending upset sale of his property?
4. Were the evidences presented by Appellee bearing notation such as "Covid-19" of postman rather than its intended addressee's signature all fundamentally defective and flawed and therefor should be null and void?
5. Had the Property always been occupied by Appellant's family: his son Robin and tenant Ashlee Nance?
6. Appellant, son Robin, and tenant Ashlee Nance confirmed they never saw any post on the property regarding pending Upset Tax sale and Appellee did not have any supporting evidence that any notice ever was posted on the Property.

(Footnote continued on next page...)

forth in Sections 602(e) and 607.1(a) of the RETSL; (2) whether the RETSL violates the United States and Pennsylvania Constitutions because the sale constitutes a “taking” of real property without just compensation; and (3) whether selling a landowner’s property to satisfy a tax claim that is miniscule when compared to the value of the property forfeited is unjust.

II. ANALYSIS

A. Notice

Taxpayer contends the trial court’s conclusion that the Bureau complied with the notice provisions of the RETSL was not supported by substantial evidence.¹³

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7. Were Appellant’s constitutional rights violated according to the Takings Clause of the Fifth Amendment to the U.S. Constitution that states “Nor shall private property be taken without just compensation”?
 8. Is the punishment to Appellant for forgetting to pay a back tax of \$1,327 inappropriate and disproportional and excessive by stripping him of his property through upset tax sale?
 9. Does Appellant always have excellent track record for paying his city, county and school taxes on his property? And Appellant is always ready, able and willing to pay all his property taxes.
 10. Does Appellant believe the trial court, the Delaware County Court of Common Pleas rendered a decision without supporting evidence and clearly erred as a matter of law with defective and flawed evidences?
 11. Did the Court of Common Pleas of Delaware County, Pennsylvania err in finding that Appellant’s challenge to the validity of Appellee’s Upset Tax Sale of Appellant’s property?

(Appellant’s Br. at 2-4.)

¹³ Appellee argues that Taxpayer waived the “notice” issue because he did not include it in his 1925(b) Statement of Errors Complained of on Appeal. (Appellee’s Br. at 6-7.) There is no merit to this argument because the trial court did not order Taxpayer to file a Concise Statement of Errors Complained of on Appeal. No order was docketed or included in the certified record, and Appellee does not indicate otherwise. Pa.R.A.P. 1925(b) provides, in pertinent part:

(Footnote continued on next page...)

(b) Direction to file statement of errors complained of on appeal; instructions to the appellant and the trial court. **If the judge entering the order giving rise to the notice of appeal (“judge”) desires clarification of the errors complained of on appeal, the judge may enter an order directing the appellant to file of record in the trial court and serve on the judge a concise statement of the errors complained of on appeal** (emphasis added).

The rule is permissive — the trial court “may,” but is not required to, issue such an order. Here, the trial court did not. Critically, the waiver consequences of Rule 1925(b) are tied directly to the existence of a proper court order and the appellant’s compliance with it. In *Berg v. Nationwide Mutual Insurance Co., Inc.*, 6 A.3d 1002 (Pa. 2010), the Supreme Court held that “absent an order by the trial court, an appellant has no obligation to file a Rule 1925(b) statement,” clarifying that **“it is the trial court’s order that triggers an appellant’s obligation under the rule, and, therefore, we look first to the language of that order.”** *Id.* at 1007-08, n.11 (emphasis added). *See, also, Commonwealth v. Thomas*, 451 A.2d 470, 472 n.8 (Pa. Super. 1982) (appellant’s failure to file a concise statement regarding the reasons for the appeal was not a violation of Rule 1925(b) because the lower court never ordered appellant to file such a statement). In *Commonwealth v. Hess*, 810 A.2d 1249 (Pa. 2002), neither party was served with copies of the trial court’s order directing the appellant to file a concise statement. The Supreme Court held that in order for an appellant to be subject to waiver for failing to file a Rule 1925(b) statement, the trial court must first issue an order directing the appellant to do so. The Court reversed the Superior Court’s finding of waiver and remanded the case because the defendant did not receive the order and thus could not be penalized for failing to file a timely statement. The Supreme Court explained that **“it is axiomatic that in order for an appellant to be subject to waiver for failing to file a timely 1925(b) statement, the trial court must first issue a 1925(b) order directing him to do so.”** *Id.* at 1252 (emphasis added). Further, a trial court’s order directing an appellant to file a concise statement must, itself, comply with Rule 1925(b)(3), which requires that the order specify that the statement shall be served on the judge and a warning that any issue not included in the statement timely filed and served shall be deemed waived. In *Commonwealth v. Savage*, 234 A.3d 723 (Pa. Super. 2020), the trial court did issue a 1925(b) order, but that order was deficient because it failed to comply with the mandatory requirements of Pa.R.A.P. 1925(b)(3). Specifically, the order neglected to advise the defendant that she must serve a copy of the concise statement upon the judge or warn her about the possibility of waiver. The Superior Court held these deficiencies precluded a finding of waiver, emphasizing that a defective order cannot trigger the waiver consequences of Rule 1925(b).

In light of the caselaw, finding waiver of issues not specifically raised in a voluntarily filed statement, sans a court order requiring such and advising as to waiver of issues not raised, would thus be unconscionable. Taxpayer cannot be construed to have waived any issues when there is no Rule 1925(b) order requiring the filing of such statement. Taxpayer should not be deprived of the right to thereafter raise his issues on appeal. To find waiver in this instance would be to contradict the clear intent of Rule 1925(b), which places the burden on the trial court to not only require the filing **(Footnote continued on next page...)**

He argues the evidence relied upon by the trial court was insufficient to establish that Taxpayer had timely actual notice of the impending upset sale. He also argues that the Bureau failed to take any reasonable efforts to locate him after the notice of sale was returned unclaimed.¹⁴ We agree with both arguments.

We begin with a review of the relevant law regarding upset sales. Section 602 of the RETSL requires a tax claim bureau to provide three different forms of notice before commencing with an upset tax sale: (1) publication in two separate newspapers; (2) posting of notice on the property to be sold; and (3) mailing notice to the owner of the property. *Rice v. Compro Distributing, Inc.*, 901 A.2d 570, 574 (Pa. Cmwlth. 2006). Section 607.1(a) also requires additional notification efforts when “a notice of a tax sale is mailed to an owner and returned without the personal signature of the addressee,” or other circumstances raise serious doubt about the personal receipt of the sale notice. 72 P.S. § 5860.607a(a).

The Bureau is required to strictly adhere to the notice provisions of the RETSL, because the tax sale laws were enacted with the primary purpose of insuring the collection of taxes, and not to strip away citizens’ property rights. *Rivera v. Carbon County Tax Claim Bureau*, 857 A.2d 208, 214 (Pa. Cmwlth. 2004). “Notice to owners of an impending sale of their properties is a duty requiring strict compliance in order to guard against the deprivation of property without due process. Thus, the focus is not

of a statement, but the address of the trial court to which it must be served and most importantly, the penalty to be imposed regarding any issues not raised therein. *i.e.*, waiver. As the issue of notice is thus not waived, the Court will address it.

¹⁴ Taxpayer also argues that his “son Robin and tenant Ashlee Nance never saw any posting on the [P]roperty regarding [the] pending Upset Tax sale.” (Taxpayer’s Br. at 8, 10.) However, because neither individual testified at the hearing, the trial court never heard or considered this evidence. This Court cannot consider new evidence and, instead, must rely upon the evidence contained in the record before the trial court.

on the alleged neglect of the owner, which is often present in some degree, but on whether the activities of the Bureau comply with the requirements of the statute.” *Smith v. Tax Claim Bureau of Pike County*, 834 A.2d 1247, 1251 (Pa. Cmwlth. 2003) (citations omitted). The Pennsylvania Supreme Court also has instructed us that “[t]he strict provisions of [the RETSL] were never meant to punish taxpayers who omitted through oversight or error . . . to pay their taxes.” *In re Return of Sale of Tax Claim Bureau (Ross Appeal)*, 76 A.2d 749, 753 (Pa. 1950).

Our cases recognize that, where the record establishes the owner had timely actual notice of the impending upset sale, certain alleged deficiencies in the result of the Bureau’s efforts may not warrant setting aside the sale. Nevertheless, RETSL’s notice provisions remain subject to strict construction. *Donofrio v. Northampton County Tax Claim Bureau*, 811 A.2d 1120, 1122 (Pa. Cmwlth. 2002); *Sabbeth v. Tax Claim Bureau of Fulton County*, 714 A.2d 514 (Pa. Cmwlth. 1998); *Casaday v. Clearfield County Tax Claim Bureau*, 627 A.2d 257 (Pa. Cmwlth. 1993).

a) Actual Notice

Actual notice “is such notice as is positively proved to have been given to a party directly and personally, or such as he is presumed to have received personally because the evidence within his knowledge was sufficient to put him upon inquiry.” *Sabbeth v. Tax Claim Bureau of Fulton County*, 714 A.2d 514, 517 (Pa. Cmwlth. 1998) (quoting *Actual Notice*, Black’s Law Dictionary (6th ed. 1990)). For actual notice to be established, the owner must have actual knowledge of both the tax delinquency and the scheduled sale of the property. *In Re Tax Sale of Real Property Situate in Paint Township, Somerset County*, 865 A.2d 1009 (Pa. Cmwlth. 2005). Whether a taxpayer has actual notice of an upset tax sale of his property is a question of fact that will not

be disturbed on appeal if supported by substantial evidence. *Aldhelm, Inc. v. Schuylkill County Tax Claim Bureau*, 879 A.2d 400, 407 (Pa. Cmwlth. 2005).

Here, the trial court rejected Taxpayer's testimony that he was unaware of the impending sale as not credible. However, it is unclear from the trial court's opinion filed on March 22, 2024, pursuant to Pennsylvania Rule of Appellate Procedure 1925(a), the factual basis upon which the trial court made that conclusion. The only conceivable support for the conclusion that we can glean from the opinion is the trial court's reference to the pre-sale "courtesy letter" Ms. Heinlein sent on April 21, 2022. *See* Trial ct. op., 3/22/24 at 2. To the extent that this was the basis for the trial court's conclusion that Taxpayer had actual notice of the upset sale, we cannot agree that this provided Taxpayer actual notice of the sale.¹⁵

First, there is no indication that Taxpayer received a courtesy letter for the Property at issue. There was evidence that Taxpayer may have received a courtesy letter for a different property. However, that is not proof that he received one for the Property at issue or that he spoke to anyone at the Bureau about this Property prior to the sale. Furthermore, the courtesy letter is not part of the record, and the contents thereof were not described by Ms. Heinlein. Therefore, we are unable to confirm that the courtesy

¹⁵ We also note that the mere posting of a property pursuant to Section 602, standing alone, does not constitute or guarantee actual notice as a matter of law. Actual notice is a distinct legal concept from the act of posting, which requires a separate factual determination and inquiry into the timing and awareness of the posting and whether the owner affirmatively knew of the sale in time to act. *See, e.g., Lerza-Keubler v. Monroe County Tax Claim Bureau*, 983 A.2d 1252 (Pa. Cmwlth. 2009) (tax sale of property set aside because the record did not establish when property owner saw the posting); *Cruder v. Westmoreland County Tax Claim Bureau*, 861 A.2d 411 (Pa. Cmwlth. 2004) (finding implied actual notice where property owner worked on the property, remaining in his office there for three to five hours a day, should have seen the posted notice). Here, the trial court simply recounted that the Bureau posted the Property on August 26, 2022, at 1:10 p.m. (Trial ct. op., 3/22/24, at 3.) It made no findings as to if, or when, Taxpayer saw it or should have seen it.

letter contained the requisite information to notify Taxpayer of the time, place, date and time of the upset sale, or the amount of deficiency for the Property.

Additionally, we have found no case law which holds that a pre-sale courtesy letter, such as the one at issue here, sent by First-Class Mail, serves as actual notice of the upset sale if it is not returned as undelivered. Without some other evidence, such as the property owner's direct admission that he received the letter, or proof that the property owner possessed knowledge sufficient to prompt inquiry into a pending sale,¹⁶ we find that mailing a pre-sale courtesy letter by First-Class Mail, and not receiving it back as undelivered, in and of itself does not establish actual notice. Accepting the Bureau's position would effectively permit a courtesy mailing, which RETSL does not require, to substitute for the statutory notice procedures enacted by the General Assembly. Nothing in RETSL or our precedent supports that result. Therefore, to the extent the trial court relied on the courtesy letter to provide Taxpayer with "actual notice" of the upset sale, it erred.

b) "Good Mailing Address"

In its March 22, 2024 opinion, the trial court recapped Ms. Heinlein's testimony that "her office was familiar with [Taxpayer] and believed they had a **good mailing address** based upon past dealings with [him] regarding other properties." Trial ct. op., 3/22/2024, at 3 (emphasis added). As noted, it was Ms. Heinlein's position that since the address the Bureau had for Taxpayer was "correct" (as evidenced from his

¹⁶ See, e.g., *Donofrio* (property owner admitted to receiving a notice from the bureau concerning unpaid real estate taxes on his property and also admitted to receiving a notice of public tax sale specifying the date, time, and location of the sale); *In re Tax Sale of 2003 Upset*, 860 A.2d 1184 (Pa. Cmwlth. 2004) (property owner admitted seeing the post taped to a tree near the mailbox located across the road from the Property and not on the Property itself and to taking the notice to his attorney the next day).

response to the courtesy letter), the Bureau was not required to conduct additional notification efforts to discover Taxpayer's whereabouts.

The trial court concluded that the Bureau met all of the requirements of the RETSL. The trial court's statement that the "Bureau met all requirements under the RETSL" clearly reveals that it agreed with Ms. Heinlein's assessment. *See also* Appellee's Brief at 10-11 (courtesy letter was "mailed to [Taxpayer]'s proper address"). However, this argument has been considered and rejected in our precedent.

In *Grove v. Franklin County Tax Claim Bureau*, 705 A.2d 162 (Pa. Cmwlth. 1997), the tax claim bureau sent notice of a sale to the property owner's correct address, and it was returned unclaimed. The tax claim bureau sent the property owner a second notice, but its file did not document that it took any additional efforts to discover taxpayer's whereabouts. This Court set aside the sale because the RETSL mandates a "reasonable search" even where the first notice was sent to the correct address. We held that a search must be conducted "regardless of the correctness of the address to which the [b]ureau sent the notices." *Id.* at 164.

In *Maya v. County of Erie Tax Claim Bureau*, 59 A.3d 50, 54 (Pa. Cmwlth. 2013), the tax claim bureau sent the owner notice of the upset tax sale of her Pennsylvania property by certified mail to her address in Ohio. When it was returned unclaimed, the tax claim bureau did a search that led it to conclude that the address in Ohio was correct. Accordingly, it sent the notice to the same address by First-Class Mail, as required by Section 607.1. The property was sold, and a notice of the sale was sent to the Ohio address. The property owner then petitioned to set aside the tax sale, asserting the notice of sale was the first and only notice she ever received. The trial court set aside the upset sale. On appeal to this Court, the tax claim bureau argued that

because all of the notices were mailed to the property owner's correct address, it had no obligation to search for her other "whereabouts."

We affirmed the trial court explaining that precedent has long held that even where the tax claim bureau has the correct address, it must make a reasonable effort to locate the property owner when the certified mailing is returned unclaimed. We rejected the tax claim bureau's argument that if the address it used was correct, it was excused from having to undertake the steps identified in Section 607.1 of the RETSL as examples of a reasonable effort to locate the property owner. *Id.* at 56-57. We reiterated that reasonable efforts must be made "even though such efforts would have been futile." *Id.* at 57.

Instantly, it is undisputed that on August 3, 2022, the Bureau sent a Section 602 notice of sale to "Luo Gang" at the 498 Howellville Road address, by United States, First-Class certified mail restricted delivery, and that the mailing was returned "unclaimed." Per the plain language of Section 607.1(a) of RETSL,

[w]hen 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.

72 P.S. § 5860.607a(a).

Thus, the Bureau was **required** to undertake reasonable efforts to discover Taxpayer's whereabouts as required by Section 607.1(a) because the upset sale notice sent by certified mail was returned without his signature. Ms. Heinlein's testimony

confirms that the Bureau did not exercise reasonable efforts to locate Taxpayer, as she relied on what she believed was a “good address” for Taxpayer.

Based on *Grove* and *Maya*, it was immaterial that the Bureau believed it had a “good address” for Taxpayer, as it was the unsuccessful delivery of the notice of sale that triggered its obligation to make additional reasonable efforts to discover his whereabouts and notify him.

III. CONCLUSION

Because the Bureau failed to establish compliance with Section 607.1(a), and because the record does not otherwise establish that Taxpayer possessed timely actual notice of the upset sale, the trial court erred. We reverse the trial court’s order overruling Taxpayer’s objections to the upset sale. We need not address Taxpayer’s remaining arguments.

PATRICIA A. McCULLOUGH, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Gang Luo,	:	
Appellant	:	
	:	
v.	:	No. 411 C.D. 2024
	:	
Delaware County Tax Claim Bureau	:	

ORDER

AND NOW, this 13th day of October, 2026, the December 6, 2023 order of the Court of Common Pleas of Delaware County is hereby REVERSED, and the above-captioned matter is remanded for entry of an order setting aside the tax sale.

Jurisdiction relinquished.

PATRICIA A. McCULLOUGH, Judge