

**LEGAL NOTICES con't**

50 Eastern Avenue  
Greencastle, PA 17225  
12/29/95

**OTHER LEGAL NOTICES**

NOTICE IS HEREBY GIVEN that by Order of Court dated July 7, 1995 (Orphans' Court Division No. 61 of 1995), Robert C. Schollaert, Esq., has been appointed auditor to schedule a hearing on objections that have been filed to the First and Final Account of Ursula Riseborough, Executrix of the Estate of Helene Eichorn and to prepare a report and recommendation to the Court at the conclusion of the hearing.

An auditor's hearing has been scheduled for Friday, January 12, 1996, at 9:00 A.M. in the Jury Assembly Room on the Third Floor of the Franklin County Courthouse in Chambersburg, Pennsylvania, at which time and place the auditor will sit for the performance of his duties to hear testimony and receive evidence on the objections filed to the Account and to hear testimony and receive evidence on claims upon the funds of the estate which are about to be distributed. All evidence available and relevant to this determination shall be presented that day. Any person having claims who do present and prove them before the auditor will be forever barred from participating in the fund for distribution.

Robert C. Schollaert, Auditor  
82 West Queen Street  
Chambersburg, PA 17201  
(717) 264-5194  
12/22,12/29,01/05/96

**IN THE COURT OF COMMON PLEAS OF THE 39TH JUDICIAL DISTRICT OF FRANKLIN COUNTY, PENNSYLVANIA - ORPHANS' COURT DIVISION**

The following list of Executors, Administrators and Guardian Accounts, Proposed Schedules of Distribution and Notice to Creditors and Reasons Why Distribution cannot be Proposed will be presented to the Court of Common Pleas of Franklin County, Pennsylvania, Orphans' Court Division for CONFIRMATION: January 4, 1996.

Gray: First and final account, statement of proposed distribution and notice to the creditors of George E. Gray, Personal Representative of the Estate of George P. Gray, late of Peters Township, Franklin County, Pennsylvania, deceased (Dennis A.

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Zeger, Co-Administrator, died November 29, 1993)

HASSLER: First and final account, statement of proposed distribution and notice to the creditors of Financial Trust Services Company, Successor in Interest to First National Bank and Trust Co., Personal Representative of the Estate of Eugene K. Hassler, late of Waynesboro, Franklin County, Pennsylvania, deceased.

SPRECHER: First and final account, statement of proposed distribution and notice to the creditors of Dauphin Deposit Bank and Trust Company and Ray Ingram, Co-Executors of the Estate of Lena M. Sprecher, late of Southampton Township, Franklin County, Pennsylvania, deceased.

STOUFFER: First and final account, statement of proposed distribution and notice to the creditors of J. L. Doyle, Personal Representative of the Last Will and Testament of Robert W. Stouffer, late of Waynesboro, Franklin County, Pennsylvania, deceased.

/s/ Rhonda King  
William E. Vandrew, Clerk  
Rhonda King, Chief Deputy  
Orphans Court Division  
Franklin County, Pennsylvania  
12/22,12/29/95

**DAVID THOMAS VOSBURG, PLAINTIFF VS ROBERT A. BENDER, VERLINDA HELMUTH and FRANKLIN COUNTY TAX CLAIM BUREAU, DEFENDANTS, Franklin County Branch, Civil Action-Law Misc. Docket Vol.BB-154**

*TAX SALE - NOTICE TO PROPERTY OWNER*

*Plaintiff sought to invalidate a tax sale of real estate, alleging failure by the Tax Claim Bureau to properly notify him of the sale. The court dismissed the exceptions, holding that compliance with the statutory provisions is sufficient, regardless of whether or not actual notice was given.*

1. In order for a tax sale to be valid, the Tax Claim Bureau must establish it has complied with the statutory notice requirements.
2. Compliance with statutory notice provisions is sufficient, regardless of whether actual notice is given.
3. Where a certified mail item is sent to the owner's correct address, and the return receipt card is in fact returned bearing what purports to be the owner's signature, the notice requirements of the statute have been met. 72 P.S. §5860.602(e).

*Richard L. Bushman, Esq.*, attorney for plaintiff  
*John McD. Sharpe, Esq.*, attorney for Defendant Franklin County Tax Claim Bureau  
*Robert E. Graham, Jr., Esq.*, attorney for Bender and Helmuth

**OPINION**

William H. Kaye, J., December 19, 1995

Before the Court are exceptions filed by plaintiff, David Thomas Vosburg, to the tax sale of real estate for unpaid taxes. Plaintiff seeks to have this Court invalidate the sale of the property for an alleged failure by the Tax Claim Bureau ("TCB") to properly notify him of the tax sale. A hearing was held on October 30, 1995, where the parties submitted evidence regarding the issue of notice. Oral argument was held on December 5, 1995 and the issue is now ripe for disposition.

**FACTS**

The tract of land which is the subject of this dispute is located in Peters Township, Franklin County. In October, 1992, a fire destroyed a one-story frame house which was situate on the parcel. Subsequent to the fire, Mr. Vosburg pursued a civil case against his fire insurance

carrier in this Court, winning a jury verdict in July of 1995. During this time period, Mr. Vosburg failed to pay the taxes due on his property. The evidence shows that during the time period in which the TCB was attempting to collect Mr. Vosburg's unpaid property taxes, Mr. Vosburg moved his residence to the state of Georgia.

At the hearing, the TCB established that they had attempted to notify Mr. Vosburg by giving him three types of notice. First, the TCB showed they had identified the Vosburg property at least 30 days prior to the September 12, 1995 sale date by publishing legal notice in the Chambersburg Public Opinion, the Waynesboro Record Herald, and in the Franklin County Legal Journal. Second, a notice of sale was sent by certified U.S. mail, restricted delivery, return receipt requested, postage prepaid, to the plaintiff's address in Georgia, delivered June 13, 1994. Third, a notice of the impending sale was posted on the subject property on August 24, 1995.

The plaintiff now claims that he never received actual notice of the impending sale. Plaintiff was not on the premises during the period prior to the sale after the notice had been posted. Plaintiff does concede that the Georgia address to which notice was sent via certified mail in June of 1994, was his address at that time and that the receipt was returned to the TCB with his name signed on the return receipt card as having received the notice. Plaintiff, however, claims that it was not his signature on the card. Rather, he claims it was signed for by his son.

## DISCUSSION

The issue to be resolved by this Court is whether the plaintiff was afforded due process before the tax authorities sold his land for unpaid taxes. Our task has been simplified by the legislature, which has established the requisite procedures that the TCB must follow before a tax sale may be effected. In order for the sale to be valid, the TCB must establish that it has complied with the statutory notice requirements. *Casanta v. Clearfield County Tax Claim Bureau*, 62 Pa.Cmwlth. 216, 435 A.2d 681 (1981). Where that burden has been met the sale will not be invalidated merely because the landowner did not receive actual notice. *Area Homes, Inc. v. Harbucks, Inc.*, 75 Pa.Cmwlth. 97, 461 A.2d 357 (1983).

The procedures which the TCB was required to follow are set forth in 72 P.S. §5860.602 entitled "Notice of Sale" which provides in pertinent part:

(a) At least thirty (30) days prior to any scheduled sale the bureau shall give notice thereof, not less than once in two (2) news-papers of general circulation in the county, if so many are published therein, and once in the legal journal, if any, designated by the court for the publication of legal notices. Such notice shall set forth (1) the purpose of such sale, (2) the time of such sale, (3) the place of such sale, (4) the terms of the sale including the approximate upset price, (5) the descriptions of the properties to be sold as stated in the claims entered and the name of the owner.

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(e) In addition to such publications, similar notice of the sale shall also be given by the bureau as follows:

(1) At least thirty (30) days before the date of 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) Each property scheduled for sale shall be posted at least ten (10) days prior to the sale.

(f) The published notice, the mail notice and the posted notice shall each state that the sale of any property may, at the option of the bureau, be stayed if the owner thereof or any lien creditor of the owner on or before the actual sale enters into an agreement with the bureau to pay the taxes in instalments, [sic] in the manner provided by this act.

(g) All notices required by this section other than the newspaper notice and notice in the legal journal shall contain the following provision which shall be conspicuously placed upon said notices and set in at least 10-point type in a box as follows:

#### WARNING

"YOUR PROPERTY IS ABOUT TO BE SOLD WITHOUT YOUR CONSENT FOR DELINQUENT TAXES. YOUR PROPERTY MAYBE SOLD FOR A SMALL FRACTION OF ITS FAIR MARKET VALUE. IF YOU HAVE ANY QUESTIONS AS TO WHAT YOU MUST DO IN ORDER TO SAVE YOUR PROPERTY, PLEASE CALL YOUR ATTORNEY, THE TAX CLAIM BUREAU AT THE FOLLOWING TELEPHONE NUMBER \_\_\_\_\_, OR THE COUNTY LAWYER REFERRAL SERVICE."

The evidence presented to the Court establishes that the TCB properly published notice as required in §5860.602(a). The TCB also, in accordance with §602(e), sent notice to the plaintiff at his correct address. This was returned to the TCB with the plaintiff's name signed to the return receipt. Finally, the TCB also timely posted the notice on the property in the format required by §602(g). The Court, therefore, concludes that the TCB complied with the statutory notice provisions.

Plaintiff argues that the process was flawed since the signature on the return receipt was not his own. As previously pointed out, the TCB's compliance with the statutory notice provisions are sufficient, regardless of whether or not actual notice was given. The fact that a

notice sent to what plaintiff concedes was the correct address and was returned to the TCB with plaintiff's name signed on the receipt supposedly by someone other than the plaintiff, is irrelevant to our ultimate determination. Where a certified mail item is sent to the owner's correct address, and the return receipt card is in fact returned bearing what purports and appears to be the owner's signature, the notice requirements of the statute have been met, barring some extraordinary circumstance such as fraud which has not been asserted herein. Were we to place the burden on TCB that plaintiff would have us assert, it would be necessary for that office to obtain the services of a handwriting expert and other personnel to obtain specimens of the owner's signature for any valid sale to occur. Neither the statute, nor due process, imposes such a heavy burden in our view.

Since the evidence presented by the TCB shows that the plaintiff was afforded the due process required by law, the plaintiff's exceptions to the sale will be denied.

#### ORDER OF COURT

NOW, December 19, 1995, after an evidentiary hearing, and consideration of briefs submitted and oral argument, plaintiff's exceptions to the tax sale of real estate are hereby DISMISSED.