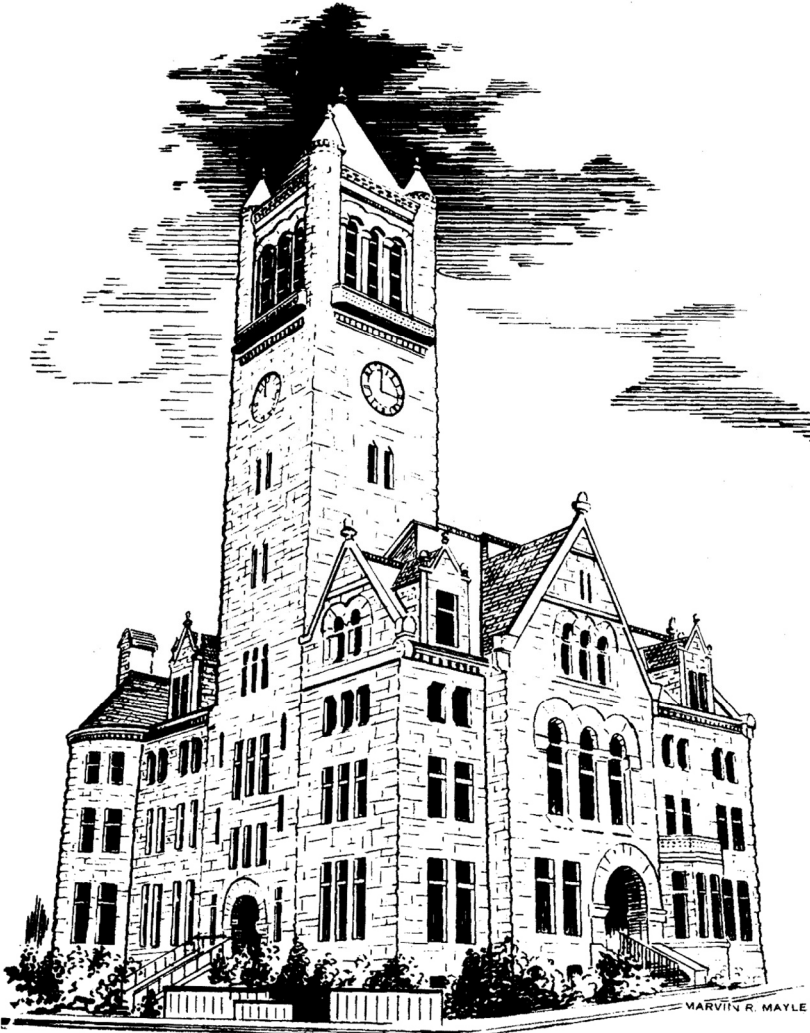


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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

SHIRLEY CONAWAY, a/k/a SHIRLEY RAE CONAWAY, late of Menallen Township, Fayette County, PA (3)

Personal Representative:
John R. Conaway, Jr.
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

IDA HARRIS, a/k/a IDA MAE HARRIS, late of Monongahela, Fayette County, PA (3)

Administratrix: Yvonne E. Massey
P.O. Box 70
Hiller, PA 15444
c/o P.O. Box 488
California, PA 15419
Attorney: Lisa Buday

CHARLOTTE I. HARTZ, late of Connellsville, Fayette County, PA (3)

Co-Executors: Kathleen A. Mazurek
1683 Scenery Drive
Elizabeth, PA 15037
Scott A. Hartz
606 Johnson Avenue
Connellsville, PA 15425
c/o Moore Becker Smarto & Acosta, P.C.
121 West Second Street
Greensburg, PA 15601
Attorney: Elizabeth A. Becker

PETER EDWARD HEGYES, late of Perryopolis, Fayette County, PA (3)
Executrix: Dawn E. Hegyes
571 Liberty Street
Perryopolis, PA 15473
c/o 4660 State Route 51 S
Belle Vernon, PA 15012
Attorney: Jill Devine

JOHNNIE MCCUMBER, late of Perryopolis, Fayette County, PA (3)

Administrator: Jeffrey A. McCumber
391 River Road
Perryopolis, PA 15473
c/o 4660 State Route 51 S
Belle Vernon, PA 15012
Attorney: Jill Devine

ROBERT A. MILLER, a/k/a ROBERT ARTHUR MILLER, late of Georges Township, Fayette County, PA (3)

Executrix: Kim Swaney, a/k/a Kimberly S. Swaney
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

FOTENIE M. MONGELL, a/k/a FOTENIE MONGELL, late of Connellsville, Fayette County, PA (3)

Co-Executors: Mark A. Mongell
440 Guildhall Grove
Alpharetta, Georgia 30022
Mitchell P. Mongell
221 Scenic Gulf Drive, Unit 620
Miramar Beach, FL 32550
c/o 140 South Main Street, Suite 301
Greensburg, PA 15601
Attorney: John M. Ranker

KATHLEEN REPOSKY, late of Redstone Township, Fayette County, PA (3)

Administrator: Laurie Reposky
143 Ambleside Way
Amherst, Ohio 44001
c/o Houston Harbaugh
Three Gateway Center
401 Liberty Avenue, 22nd Floor
Pittsburgh, PA 15222
Attorney: Rebecca Winge

WILMA E. RHODES, late of Nicholson Township, Fayette County, PA (3)
Administratrix: Carol J. Zapotosky
 11 West Uniontown Avenue
 P.O. Box 114
 Martin, PA 15460
 c/o 407 Oak Spring Road
 Canonsburg, PA 15317
Attorney: Roger Gaydos

Second Publication

TIMOTHY M. BEEMAN, a/k/a TIMOTHY MARK BEEMAN, late of South Connellsville Borough, Fayette County, PA (2)
Personal Representative:
 Clarence Donald Beeman
 c/o Watson Mundorff, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Timothy J. Witt

KIRK GIOVANNELLI, a/k/a KIRK ALLEN GIOVANNELLI, late of Jefferson Township, Fayette County, PA (2)
Administratrix: Tia Giovannelli
 404 Columbia Street
 P.O. Box 464
 Perryopolis, PA 15473
 c/o 4660 State Route 51 S
 Belle Vernon, PA 15012
Attorney: Jill Devine

IDA HARRIS, a/k/a IDA MAE HARRIS, late of Monongahela, Fayette County, PA (2)
Administratrix: Yvonne E. Massey
 P.O. Box 70
 Hiller, PA 15444
 c/o P.O. Box 488
 California, PA 15419
Attorney: Lisa Buday

RENNE KREMPOSKY, late of Luzerne Township, Fayette County, PA (2)
Administrator: Gerald J. Kremposky, Jr.
 P.O. Box 124
 LaBelle, PA 15450
 c/o P.O. Box 488
 California, PA 15419
Attorney: Lisa Buday

JODY LATTANZO, late of Connellsville, Fayette County, PA (2)
Administrator: Lewis Lattanzo
 c/o Casini & Geibig, LLC
 815B Memorial Boulevard
 Connellsville, PA 15425
Attorney: Jennifer M. Casini

JANET L. STEYER, late of Springfield Township, Fayette County, PA (2)
Executrix: Kelly Jo Steyer-Burnsworth
 882 Maple Summit Road
 Mill Run, PA 15464
 c/o Moore Becker Smarto & Acosta, P.C.
 121 West Second Street
 Greensburg, PA 15601
Attorney: Elizabeth A. Becker

First Publication

DONNA BITONTI, late of Belle Vernon Borough, Fayette County, PA (1)
Executors: James A. Bitonti
 49 Sampson Street
 Belle Vernon, PA 15012
 Toni Lynn Breakwell
 430 Hill Street
 Belle Vernon, PA 15012
 c/o P.O. Box 718
 1310 Cross Street
 Rostraver, PA 15012
Attorney: Brian Pirilla

KATHRYN CAHN, a/k/a KATHRYN ELAINE CAHN, late of South Union Township, Fayette County, PA (1)
Executor: William Marvin Cahn
 c/o Higinbotham Law Offices
 68 South Beeson Boulevard
 Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

MARY A. CAROLLA, late of North Union Township, Fayette County, PA (1)
Executrix: Sheila C. Peters
 c/o DeHaas Law, LLC
 51 East South Street
 Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

PATRICIA A. MACHO, late of North Union Township, Fayette County, PA (1)
Executrix: Jennifer F. Watson
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

**PATRICIA DIANNE WAGNER, a/k/a
PATRICIA D. WAGNER, a/k/a DIANNE
BRIDEGUM WAGNER, a/k/a DIANNE B.
WAGNER**, late of Connellsville, Fayette County, PA (1)
Executrix: Merry Dawn Witt
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

LEGAL NOTICES

In Re: Dorothy P. Friend a/k/a Dorothy Friend, deceased and Dorothy P. Friend-deceased, Trustee of the Revocable Trust Agreement of Earl W. Friend and Dorothy P. Friend late of 1103 Kentuck Road, Ohio, PA 15470

Administrator of the Dorothy P. Friend estate and final Trustee of the Revocable Trust Agreement of Earl W. Friend and Dorothy P. Friend was appointed to the respected offices by the Register of Wills of Fayette County, Pennsylvania and is the Trustee dissolving the Revocable Trust. Notice is hereby given to all persons having claims or demands against said Estate or against the Revocable Trust and all persons owing funds to the Estate or to the Revocable Trust shall make claims or make payments thereof to the respective entity, Revocable Trust or Estate or to the Administrator, Trustee Attorney.

Garry Sproul, Administrator and Trustee
c/o Donald J. McCue, J.D., P.E.
Donald McCue Law Firm P.C.
Colonial Law Building
813 Blackstone Road
Connellsville, PA 15425

(2 of 3)

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
Judge CORDARO
No: 1541 of 2023, G.D.

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
Judge MEHALOV
264 of 2024, G.D.

IN RE: EMMAJAYNE PEARL WOODY,
a/k/a EMMA JANE CLARK

IN RE: CHANGE OF NAME OF
KASH KARTER BENNETT

NOTICE

NOTICE

Notice is hereby given to all interested parties, that a petition styled as above has been filed in the Court of Common Pleas, Fayette County, Pennsylvania, seeking Change of Name of Emmajayne Pearl Woody a/k/a Emma Jane Clark.

Notice is hereby given to all interested parties, that a petition styled as above has been filed in the Court of Common Pleas, Fayette County, Pennsylvania, seeking Change of Name of Kash Karter Bennett.

Hearing to consider such Petition shall be held in Court Room Number 2, of the Fayette County Courthouse, 61 East Main Street, Uniontown, Fayette County, Pennsylvania, on March 21, 2024, at 2:30 o'clock P.M., before the Honorable Judge Linda Cordaro.

Hearing to consider such Petition shall be held in Court Room Number 3, of the Fayette County Courthouse, 61 East Main Street, Uniontown, Fayette County, Pennsylvania, on March 21, 2024, at 9:30 o'clock a.m., before the Honorable Judge Mark Mehalov.

Patrick C. McDaniel
Attorney for Petitioner
PA. I.D. #42125
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Uniontown, PA 15401
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JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: UPSET PRICE TAX SALE DATED	:	
SEPTEMBER 18, 2023, OF REAL	:	
PROPERTY LOCATED AT	:	
817 E. LAKEVIEW ROAD,	:	
HENRY CLAY TOWNSHIP,	:	
	:	
PATRICK CHARLES SCHEIDER,	:	
Petitioner,	:	
v.	:	
FAYETTE COUNTY TAX CLAIM	:	
BUREAU, and JAMI HOVANEC	:	
a/k/a JAMI HOVANIC,	:	No. 2027 of 2023, G.D.
Respondents,	:	President Judge Steve P. Leskinen

OPINION AND DECREE

LESKINEN, P.J.

February 6, 2024

Before the Court is the Petition to Set Aside Upset Tax Sale and to Enjoin Filing of Upset Tax Sale Deed filed by Petitioner, Patrick Charles Scheider. Upon consideration of the evidence presented at a hearing on the matter held on December 14th, 2023, and the supplemental briefs and memoranda offered by the parties, the Petition is hereby granted and the sale is voided and set aside.

FACTUAL AND PROCEDURAL HISTORY

The property at issue is designated as Fayette County Tax Parcel No. 16-09-0084, consisting of a mobile home on approximately 0.185 acres at 817 E. Lakeview Road in Henry Clay Township, Fayette County, Pennsylvania ("Property"). The record owner of the Property at the time of the sale was Petitioner, Patrick Charles Scheider. Scheider testified that he resides at 419 Coleman Road, McDonald, PA, and maintains the Property as a summer/vacation home, where he stays most weekends from April through September. The mailing address on file with the Fayette County Tax Claim Bureau ("TCB") for the Property is 419 Coleman Road, McDonald, PA, 15057. (Hearing Exhibit "F".) Sarah Minnick, the Director of the Fayette County Tax Claim Bureau ("TCB") testified that the Assessment Office provided the TCB with an alternate address of PO Box 1557, Canonsburg, PA, 15317, which Scheider testified is still an active PO Box where he receives mail. (Hearing Transcript, pp. 6, 8, and 40.) The TCB presented evidence that the taxes for the Property for the years of 2012, 2014, 2015, 2017, 2018, 2019, and 2020 were not paid to the local tax collector but instead were paid as delinquent to the TCB, with payments made in 2013, 2015, 2017, 2019, and 2021. (Hearing Exhibit "F".)

The TCB received the unpaid 2021 tax bills in 2022. The TCB sent a return and claim mailer on May 6th, 2022 to the Canonsburg PO Box above, but addressed to "Scheider Patrick Charles" rather than Patrick Charles Scheider. That letter was sent via certified mail and was returned with the notation by the USPS, "Return to Sender, Insufficient Address, Unable to Forward." (Hearing Transcript, p. 47, Hearing Exhibit "G".)

When the account became two years delinquent, the TCB sent a Notice of Public Tax Sale via certified mail, restricted delivery on July 6th, 2023, to the 419 Coleman Road address. This was also addressed to "Scheider Patrick Charles" and was returned as unclaimed. (Hearing Exhibit "G".) The TCB then sent a 10-day mailer on September 9th, 2023, by first-class mail to the 419 Coleman Road address. This was documented by a stamped report of mailing (Hearing Exhibit "A"), and it appears that this was also addressed to "Scheider Patrick Charles" though the report does not distinguish between first and last names.

The TCB also admitted exhibits and testimony as to the manner in which the property was posted and the proof of publication in the local newspaper and the Fayette County Legal Journal. (Hearing Exhibits "B, C, D, and E".)

DISCUSSION

One of the most fundamental tenets of both our state and federal constitutions is that no person shall be deprived of property without due process of law. *Hess v. Westervick*, 366 Pa. 90, 96 (Pa. 1950). Without this due process, the right of property cannot be said to exist. *Id.* "Before a State may take property and sell it for unpaid taxes, the Due Process Clause of the Fourteenth Amendment requires the government to provide the owner notice and opportunity for a hearing appropriate to the nature of the case." *Jones v. Flowers*, 547 U.S. 220, 223 (2006) (internal quotations omitted). As the U.S. Supreme Court held in *Jones* (at 234):

[Petitioner] should have been more diligent with respect to his property, no question. People must pay their taxes, and the government may hold citizens accountable for tax delinquency by taking their property. But before forcing a citizen to satisfy his debt by forfeiting his property, due process requires the government to provide adequate notice of the impending taking.

Our courts and legislatures have also recognized the need to ensure that a buyer at a tax sale is purchasing more than just a lawsuit. *Hess* at 99. The legislature has sought to prevent invalidation of sales for minor irregularities, but this creates a substantial responsibility in the taxing authorities to ensure that an owner is not deprived of valuable property because of carelessness or oversight. *Hess* at 98.

The focus, when reviewing a challenge to a tax sale, is not on the alleged neglect of the owner, which is often present in some degree, but on whether the taxing authority has complied with every statutory requirement. *Jenkins v. Fayette County Tax Claim Bureau*, 176 A.3d 1038, 1043 (Pa. Cmwlth. 2018). "A failure by a tax claim bureau to comply with each and every statutory requirement will nullify a sale." *Id.*

The fact that this Petitioner's neglect was repeated and obnoxious does not relieve the TCB of its obligation.

Owner-Occupied Property

Petitioner argues that the Property at issue was "owner-occupied property" and therefore he was entitled to notice of sale by personal service pursuant to 72 P.S. §5860.601(a)(3). "Owner Occupant" is defined by §5860.102 as "the owner of a property which has improvements constructed thereon and for which the annual tax bill is mailed to an owner residing at the same address as that of the property." Here, Scheider testified that he resides at 419 Coleman Road, McDonald, Pennsylvania, that his driver's license is registered as 419 Coleman Road, and that he visits the Property every week-end from April to September. (Hearing Transcript, pp. 37, 40, 42-43.) There was no evidence presented that Scheider resided at the Property or that the annual tax bill was mailed to the same address as the Property. Therefore, by the plain language of the statutory definition of Owner Occupant, Scheider was not an "Owner Occupant" of the Property, and he was not a person who was entitled to notice of sale by personal service.

Conspicuity of Posting

Petitioner also challenges whether the posting was made in a manner to be reasonably conspicuous to the owner and the general public. The TCB offered a Field Report of the posting made by Palmetto Posting, the contractor employed by the TCB for this purpose. (Hearing Exhibit "E".) Minnick established through her testimony that this report was produced and retained as part of their business records. The report includes a picture of the posting with the structure visible in the background, the GPS coordinates of where the sign was posted, and an indication on a map of where the sign was posted on the property.

§5860.602(e)(3) requires the posting of a property at least ten (10) days before sale, and the technical requirements for posting of a property with assessed improvements (as is the case here) are set forth in subparagraph (1) of the definition of "Posted" or "Posting" in §5860.102 as follows:

"Posted" or "posting," the following:

(1) In the case of property containing assessed improvements, affixing notices as required by this act:

(i) To a portion of an improvement situated to be reasonably conspicuous to both the owner and the general public.

(ii) To a stake secured on or adjacent to the property, within approximately twenty-five (25) feet of any entrance to the property in a manner situated to be reasonably conspicuous to both the owner and the general public, in cases in which subclause (i) does not apply.

(iii) Adjacent to the property line, on a stake secured on or adjacent to the property in a manner reasonably conspicuous to the owner and the general public in cases in which subclauses (i) and (ii) do not apply.

There is a presumption of the regularity of an official act, including the posting of a property for a tax sale, which the property owner may overcome by averring the notice

provisions were not strictly followed. The burden then shifts to the TCB to show compliance with the notice provisions. In *re Upset Sale Tax Claim Bureau McKean County* on September 10th, 2007, 965 A.2d 1244, 1247 (Pa. Cmwlth. 2009). "Precedent requires that the posting be reasonable, meaning that it must be conspicuous, likely to ensure notice, and placed for all to observe." *Id.* In the McKean County case, the Commonwealth Court considered a similar situation involving a hunting camp property that was located on a private road and approximately one quarter of a mile from the nearest public road. *Id.* at 1245. The Court noted, "[t]he private versus public road distinction, which may be relevant in cases involving DUI's, condemnation, and zoning, is not useful here where the issue involves the visibility of a posted notice by the members of the general public who use the road or are interested in purchasing the property." *Id.* at 1247. Of further relevance to this matter, the McKean County Court held that the critical question was not whether the notice was actually viewed by the public, but whether under the circumstances it reasonably could be viewed by the public. Further, testimony from the owners who lived near the property that they did not see the posting is not sufficient to establish that the notices did not satisfy the statutory posting requirements. *Id.* at 1248.

Here, the Property's only road frontage is on Lakeview Rd., the private drive. The photograph and map provided by the posting company show that the post was made along Lakeview Road with the structure on the property visible in the background. Scheider testified that he did not see the posting, that he was never informed by any neighbors that they saw the posting, and that "you would not see that from the driver's side and if it's posted over the hill you wouldn't see it either." (Hearing Transcript, pp. 31-32.) Even if all of these statements are accepted as fact, they are not sufficient to establish that the notices did not satisfy the statutory posting requirements.

Sufficiency of Notice Under §5860.602(e){1} and §5860.602(e)(2)

The TCB is required to give each owner notice of sale at least thirty (30) days before the date of sale by United States certified mail, restricted delivery under §5860.602 (e)(1). If the TCB does not receive a return receipt from each owner, then the TCB must provide a similar notice of sale by first class mail with proof of mailing at the last known address under §5860.602(e)(2). "The notice provisions of tax sale statutes must be strictly complied with in order to guard against the deprivation of property without due process of law." In *re Tax Claim Bureau of Lehigh County*, 381 A.2d 511, 512 (Pa. Cmwlth. 1978). If a notice of sale was improperly addressed, the notice is invalid and the sale must be overturned. *Id.* "When an individual's property rights are at stake, due process requires that he or she be identified with clarity and without disguise so that those rights may be asserted and the owners may fully protect his or her interest in the property concerned." *LaBracio v. Northumberland County*, 467 A.2d 1221, 1224 (Pa. Cmwlth. 1983).

Here, the actual envelopes/mailers sent for the May 2022 Return and Claim Notice and the July 2023 Notice of Sale were admitted as evidence. (Hearing Exhibits "G and H".) Though the TCB mailed the correct type of notice using the correct-form of mail delivery, both notices were improperly addressed to "Scheider Patrick Charles" rather than to Patrick Charles Scheider. Scheider testified that he had not received any notices other than the letter that he received after the sale had already taken place. (Hearing

Transcript, p. 27.) This is supported by the evidence as to the Return and Claim Notice, which was returned to the TCB with an "Insufficient Address" notation from the USPS. As the address on the envelope appears to be correct and was verified as an active PO Box by Scheider, it is certainly plausible that the error in the name caused the mail to be rejected, misdirected, delayed, or otherwise not delivered.

Though it is clear from Scheider's testimony and the evidence presented that his own lax approach to paying the taxes due on this property led to delinquencies in multiple years and to the property being listed for sale on at least one other occasion before the sale at issue, the burden is on the TCB to show strict compliance with the applicable statutes. As the evidence clearly shows that the required notices were improperly addressed, the notices were invalid and the tax sale must be overturned.

WHEREFORE, the Court issues the following Order:

DECREE

AND NOW, this 6h day of February, 2024, after hearing and upon the consideration of the entire record, the Petition to Set Aside Upset Tax Sale and Motion to Enjoin Filing of Upset Tax Sale Deed is hereby GRANTED and the tax sale of property parcel number 16-09-0084, commonly known as 817 E. Lakeview Road, Henry Clay Township, Fayette County, PA is hereby VOIDED and SET ASIDE.

This Order is contingent upon Petitioner paying by cash or certified funds all delinquent taxes for the tax year 2021, in the amount of \$401.02 within thirty (30) days of the date of this Order. If the Petitioner complies with these requirements, the Tax Claim Bureau shall refund the purchase price of \$18,000.00 to the purchaser, Jami Hovanec a/k/a Jamie Hovanic. This amount does not include any taxes due for subsequent tax years and the payment of the amount specified shall not preclude the Fayette County Tax Claim Bureau from taking separate action on any delinquencies from subsequent tax years.

If Petitioner fails to comply with these requirements, the Petition shall be DENIED and the Tax Claim Bureau shall issue a deed to the highest bidder, Jami Hovanec a/k/a Jamie Hovanic.

BY THE COURT:
STEVE. P. LESKINEN,
PRESIDENT JUDGE

ATTEST:
PROTHONOTARY

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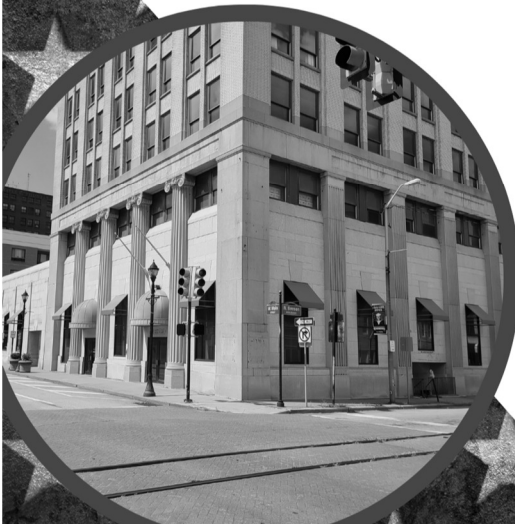


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- SIGN UP TO BE A POLLWORKER
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