

## **William Bender's Original Questions Regarding His Intent to Publish an Article in the Philadelphia Inquirer**

The purpose of this document is to provide accurate information regarding excess proceeds and escheatment. Once again, instead of doing investigative reporting, William Bender, of the Philadelphia Inquirer, tries to bait our Office into a response, so that he can create this false narrative. Since they never publish our full response, we are making our answers to William Bender's questions public via our website. Below, please see the original questions that our Office received:

**Question: The story is about excess funds from tax sales and the difficulties former property owners have had getting the money they are entitled to and/or getting the distribution sheets that show how proceeds of the sale were spent. The Law Dept says the Sheriff's Office holds this money for three years, and if not claimed, transfers it to the state. Is that correct?**

**Our Response:** This is incorrect.

To begin, you're writing a story about tax sales that have not occurred since April of 2021. In fact, the Bilal administration's inception began January 6, 2020. Shortly after, tax sales stopped March of 2020, due to the COVID-19 pandemic. When the moratorium for Sheriff's Sales ended, we had one full month of tax sales in April of 2021. Subsequently, the City ceased all Philadelphia County tax sales and has yet to resume them.

Further, as a neutral party to a sale, we are the fiduciary over excess proceeds (statutorily defined as Unclaimed Property). As the original institution where the unclaimed property was established, the statute authorizes us to be trustee over the property (in this case excess proceeds) for a three-year period. Within that timeframe, we ensure that the excess proceeds are readily available for the rightful homeowner (Note: details regarding information provided to homeowners below).

If the property is not claimed within the three-year period, we escheat the money to the State (escheatment process outlined below).

For your information, the current procedure the Sheriff's Office follows for escheatment is not the same as previous administrations. In fact, while establishing the current procedure, the Bilal administration discovered that the statutory requirement for unclaimed property had not been satisfied. More specifically, previous administrations held funds for two years, then escheated the money to the City, acting under a settlement agreement between the State and the City. Then, the City held the money for an additional three years (meaning, the unclaimed property was held for a total of five years) before being escheated to the State. We found that this procedure was problematic for several reasons:

First, the City acting as trustee over excess funds from a sale is a conflict because a potential interest, for their benefit, in those funds may arise (i.e. if a municipal lien is not reflected on the proposed distribution, filed with the prothonotary's office, the City has ten days to make a claim for debts owed). Second, the fact that the City held the money for three additional years, instead of one year, exceeded the scope of the statutory requirement. Third, we found that the longer the

City held on to the funds, the more likely they would attach post-sale liens before escheating the money to the State. This means, the homeowner was being penalized for liens that arose, in some cases, up to five years after the sale occurred. This allowed the City to collect money from excess proceeds that they were no longer entitled to, and the homeowner was unaware that the unclaimed property belonged to them. Fourth, and most importantly, the previous administrations were acting under a settlement agreement that expired in 2016. (Please see below for our current procedure)

**Question: What is the total amount of excess funds from sheriff's sales currently in possession of the Sheriff's Office?**

**Our Response:** The total number of excess proceeds is ever-changing because H.A.R.T. claims are filed and processed on a rolling basis. (*See full procedure/ description below*). Therefore, we can't provide an accurate total amount until preparation for escheatment is finalized.

**Question: Any estimate on how much has been transferred to the state annually in recent years?**

**Our Response:** As stated above, the City escheated excess proceeds to the State for previous administrations. The Bilal administration escheated excess proceeds from 2019 sales (in 2022, which is the proper escheatment period) to the State, totaling \$19,034,587.02.

**Question: Why are the distribution sheets from sheriff's sales not made public (e.g. by uploading them to the court docket)? Why are they not or provided upon request? It appears from a 2013 ruling by the state Office of Open Records that distribution sheets are considered public record under the Right to Know Law. Other counties treat them as public record. In Philadelphia, though, recent court cases show that former homeowners have had to initiate litigation to get the distribution sheets from the sales of their homes.**

**Our Response:**

Your question implies that the Sheriff's Office's position is, "distribution sheets" are not public record and that we do not provide them upon request. This is incorrect. Following civil procedure requirements, the Bilal administration posts the proposed distribution policies to the court docket (within thirty days after a sale), and then forwards the policies to the title company. Our Office provides distribution policies, to those who have a relationship with the property associated with excess proceeds, upon request.

## **Philadelphia Sheriff's Office's Procedure for Excess Proceeds and Escheatment**

The Sheriff's Office is charged with the responsibility of governing the sale process for mortgage and tax foreclosure. Post sale, a title company generates a distribution policy that reflects outstanding debt (ex. mortgage, water, meter, etc.) that is attached to the property that was sold. Once all debts are paid and liabilities are settled, any funds left over from the sale (excess proceeds) will be distributed to the homeowner (owner(s) of record at the time the court ordered the sale of property).

Though excess proceeds are not guaranteed, our Office has several methods of ensuring every homeowner whose property is sold at Sheriff's Sale has information on how to obtain excess proceeds (if available). First, we are required by Pennsylvania Civil Procedure to notify homeowners by posting a handbill on the property when it goes up for sale. Alongside the handbill, our deputies post pamphlets that contain information on how to file a claim with our office for excess proceeds. Second, we provide information at all community outreach events and make information available via our website ([phillysheriff.com](http://phillysheriff.com)).

Further, all claims for excess proceeds are handled by our Homeowner Asset Recovery Team (H.A.R.T.), on a case-by-case basis. Due to the volume of properties that go up for each sale, our Office does not keep a running list of the properties that are associated with excess proceeds. However, all proposed distribution policies (which reflect the amount of excess proceeds) are filed with the prothonotary's office no less than thirty days after a sale. In conjunction with the information we provide, homeowners can go to the prothonotary's office and view the amount of excess proceeds (if any).

As a fiduciary we are required to escheat excess proceeds to the State after three years. During past administrations, acting on an agreement between the City and the State, the Sheriff's Office would hold the money for two years, then escheat the money to the City (in which the City would execute the escheatment process to the State). This method of escheatment continued despite the expiration of the agreement in 2016. Now, the Sheriff's Office completes the escheatment process in-house, following all the guidelines outlined in the Abandoned and Unclaimed Property statute. Below is a description of our current escheatment process:

Every October before the year escheatment is due, our real estate department provides our Civil detectives with information regarding properties that still contain excess proceeds. Typically, we do not have a forwarding address for homeowners who are owed excess proceeds, so, our detectives use the homeowners name to run an address search using Thomas Reuters CLEAR program to find a current address, or possible relative. Occasionally our detectives can find a birthdate or social security number and run that information through a program called JNET (Justice Network). Once our detectives locate a current address, they update the information and send it back to our real estate department. Following State guidelines, requiring us to notify homeowners of their excess proceeds no less than 60 days but not more than 120 days before we escheat the money, we create a personalized letter for each homeowner. Every letter includes the amount of excess funds, the timeframe to obtain those funds from our Office, and instructions on how to file a H.A.R.T. claim. The letter also gives a brief description of how to obtain excess funds

from the State if the homeowner misses the deadline. When the deadline expires, our Office timely submits all required forms, including a detailed list of each homeowner, property description, and the amount of excess proceeds while simultaneously preparing the wire transfer to be sent.

Our goal is always to return excess proceeds directly to the homeowner before escheatment to the State. To date, during the Bilal administration, the Philadelphia Sheriff's Office has returned roughly \$7.5 million back to homeowners and escheated roughly \$19 million to the State.