

ery; that a decision be made based on the record, and that a party be allowed to be represented by counsel.

(1) Notice. “An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”⁷²¹ This may include an obligation, upon learning that an attempt at notice has failed, to take “reasonable followup measures” that may be available.⁷²² In addition, notice must be sufficient to enable the recipient to determine what is being proposed and what he must do to prevent the deprivation of his interest.⁷²³ Ordinarily, service of the notice must be reasonably structured to assure that the person to whom it is directed receives it.⁷²⁴ Such notice, however, need not describe the legal procedures necessary to protect one’s interest if such procedures are otherwise set out in published, generally available public sources.⁷²⁵

(2) Hearing. “[S]ome form of hearing is required before an individual is finally deprived of a property [or liberty] interest.”⁷²⁶ This right is a “basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment”⁷²⁷ Thus, the notice of hearing and the opportunity to be heard “must be granted at a meaningful time and in a meaningful manner.”⁷²⁸

⁷²¹ *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). See also *Richards v. Jefferson County*, 517 U.S. 793 (1996) (res judicata may not apply where taxpayer who challenged a county’s occupation tax was not informed of prior case and where taxpayer interests were not adequately protected).

⁷²² *Jones v. Flowers*, 547 U.S. 220, 235 (2006) (state’s certified letter, intended to notify a property owner that his property would be sold unless he satisfied a tax delinquency, was returned by the post office marked “unclaimed”; the state should have taken additional reasonable steps to notify the property owner, as it would have been practicable for it to have done so).

⁷²³ *Goldberg v. Kelly*, 397 U.S. 254, 267–68 (1970).

⁷²⁴ *Armstrong v. Manzo*, 380 U.S. 545, 550 (1965); *Robinson v. Hanrahan*, 409 U.S. 38 (1974); *Greene v. Lindsey*, 456 U.S. 444 (1982).

⁷²⁵ *City of West Covina v. Perkins*, 525 U.S. 234 (1999).

⁷²⁶ *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). “Parties whose rights are to be affected are entitled to be heard.” *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 233 (1863).

⁷²⁷ *Fuentes v. Shevin*, 407 U.S. 67, 80–81 (1972). See *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 170–71 (1951) (Justice Frankfurter concurring).

⁷²⁸ *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).