

2019 BUDGET MESSAGE
PUBLIC TRUSTEE FOR MESA COUNTY

The Public Trustee continued to operate extremely efficiently in 2018, and was thus able to give Mesa County over \$23,000.00 during the year, in addition to the thousands of dollars the Public Trustee office paid the county for lease payments, mail charges, and recording of documents.

The Public Trustee for Mesa County has, since 1894, been dedicated to protecting the rights of borrowers, lenders, and lienholders. The Office was created in response to abuses of Coloradans' property rights during the Panic of 1893, and continues in this mission to this day.

Colorado is unique in the United States in having an accessible public official assigned by law to protect borrowers' rights during the foreclosure process; lenders are able to hire attorneys to assure that their rights to foreclose are respected. In other states, a borrower would either need to work through the courts at great expense, or try to work with a Private Trustee hired by the bank.

The Public Trustee's Office is not funded by tax dollars. Instead, the Public Trustee's Office is paid fees – mostly by lenders – for specific tasks the office performs. These fees are set by state statute.

The primary duties of the Public Trustee's Office are activated when a borrower and lender sign a Deed of Trust associated with a promise to repay a debt. In the Deed of Trust, the borrower grants the lender a lien on his or her property as security against the money being borrowed. The borrower also grants certain powers to the Public Trustee of the county in which the property is located.

When the loan is repaid or forgiven, the lender asks the Public Trustee to release the lien. We ensure that the lender has properly documented this request, so the lien is effectively cleared from the owner's title and so no other party can claim to be owed the money. If the request is properly made, we forward the documentation to the County Clerk so the release becomes part of the public record.

Our fee for this review, set by the state legislature, is \$15.00. In 2017, we earned revenue of \$124,920.00 for releasing 8,328 Deeds of Trust. I project that we will release nearly 8,000 Deeds of Trust in 2018, earning projected revenue of over \$118,000.00. My 2019 budget estimates about 7,333 releases of Deeds of Trust in 2019 with projected earned revenue of \$109,995.00.

If a loan secured by property in Mesa County falls into default, the lender may exercise its right to demand that the Public Trustee foreclose on the secured property. The Public Trustee office reviews the foreclosure filing for completeness and compliance

with state law, rejecting several initial filings each month. We mail notices of the sale to the borrowers, property owners, lienholders, and other interested parties, and notify them of their rights. We also notify the public of the foreclosure sale.

We ensure that lenders respect the borrowers' rights to cure their default before sale, and we monitor compliance with Colorado's foreclosure deferment program. After the public auction, we manage the rights of junior lienholders to redeem their interests in the sale. Finally, in the rare cases when an investor has purchased property for more than the amount owed, we distribute the resulting overbid to lienholders and the property owner as directed by law.

The fee charged to lenders for us to administer a foreclosure is \$150.00, as set by state statute. In 2017, we earned revenue of over \$61,000.00 while administering 396 new foreclosures. During 2018, I project that we will have opened around 260 new foreclosures, with projected earned revenue of around \$39,000.00. There has been a general decline from 2012 to 2018 in the number of foreclosures. My 2019 budget estimates that the number of foreclosures will continue a slight decline, with our office receiving \$34,050.00 in fees from foreclosing lenders to administer those foreclosures.

The Public Trustee office also receives a relatively smaller amount of revenue from deeds issued, withdrawals of foreclosures, filings of intents to redeem, and interest earned on deposits. In 2017, we earned around \$17,000.00 from these sources. I project we will earn \$12,000.00 in 2018 from these sources. My 2019 budget estimates under \$10,000.00 revenue related to these sources.

In 2017, the Public Trustee office's total revenue was \$203,555.18. I project total revenue for 2018 to be \$170,007.56. My 2019 budget estimate for total revenue is \$153,975.00. Revenue continues to decline as fewer foreclosures are filed.

In 2017, the Public Trustee office spent \$124,445.78 in salaries and benefits. In 2018, spending on salaries and benefits is projected to be \$122,677.14. The 2019 budget projects this expenditure category to \$129,000.00. The state legislature has set the salary for the Public Trustee at \$72,500.00, so that will not change. In addition to the Public Trustee, there is now only one part-time employee. The Public Trustee also occasionally uses temporary employees to help with scanning of old files. The Public Trustee office offers benefits that we adjust to match county employees' benefits.

The Public Trustee office leases office space from the county for \$460.00 per month (reduced in June 2018 from \$580.25 per month). The budget for office rent and storage for 2019 is \$8,000.00.

The Public Trustee budget for other expenses is \$16,900.00 for 2019, with \$11,500.00 for accounting and auditing services being the biggest share of this. The annual audit has been done by the accounting firm of Chadwick Steinkirchner for \$5,000.00. The monthly bank reconciliation and payroll, and the quarterly financial reports are done by Dalby Wendland.

In 2017, the Public Trustee office's total expenses were \$148,333.05; down from \$343,140.05 in 2012 when Mike Moran was first appointed as Public Trustee. I project our total 2018 expenses to be around \$146,000.00. My 2019 budget includes an estimate of \$153,900.00 in overall expenses.

Because the Public Trustee Office is not funded by tax dollars, but only on fees charged to lenders for each release of deed of trust and each foreclosure they file, the revenue to operate the Public Trustee Office is unknown a year in advance, and can only be estimated. The legislature has designed the Public Trustee office so that the office may hold in a reserve fund sufficient funds to operate the office the following year. The amount held in reserve is equal to the prior year's expenses. If the reserve fund is below this level, the Public Trustee office will first deposit any revenue in excess of current expenses into this fund to bring it to the level designated in the statute.

On a quarterly basis, if there is additional revenue from the statutorily-defined fees charged to lenders in excess of the Public Trustee's operating expenses, any excess revenue is given to the county.

Aside from the income and expenses of the Public Trustee office, the office also handles a large sum of custodial, pass-through funds. On an annual basis, this includes, for example, over \$60,000.00 paid to the Mesa County Clerk & Recorder for the recording of documents, over \$100,000.00 paid to The Daily Sentinel for statutorily-required advertising of foreclosure notices, and several million dollars in money bid for properties sold at foreclosure auction. These custodial, pass-through funds are not reflected in the Public Trustee annual budget.

If there are any questions or comments about this budget, the public is invited to attend our public budget hearing on Wednesday, December 5, 2018 at 10:00 a.m. at 544 Rood Avenue, in the Public Hearing Room. You may also call the Public Trustee, Mike Moran, at (970) 254-4180 or submit written comments to Mike.Moran@mesacounty.us.

Respectfully submitted,
Mike Moran
Public Trustee for Mesa County