



**THOMAS S. MOWLE**

**EL PASO COUNTY**

**PUBLIC TRUSTEE**

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## BUDGET MESSAGE

2016

### EL PASO COUNTY PUBLIC TRUSTEE OFFICE

The El Paso County Public Trustee has, since 1894, been dedicated to protecting the rights of borrowers, lenders, and lien holders. 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 borrower's rights during the foreclosure process – lenders are able to hire attorneys to assure that their right to foreclose is 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. Since I am a public official, the banks cannot replace me with someone who would be less zealous at making them follow the law. Anyone can walk into my office without an appointment, call me directly, or send me email and get good honest information about their situation and their rights – all free of cost.

The primary duties of this 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 or owed. 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. In 2014, we earned revenue of \$416,790 for releasing 27,786 Deeds of Trust. We project that we will release 37,000 Deeds of Trust in 2015, earning revenue of \$555,000. Our 2016 budget estimates a small increase in the number of released Deeds of Trust, to 38,000, resulting in earned revenue of \$570,000.

If the loan falls into default, the lender may exercise its right to demand that the Public Trustee foreclose on the secured property. We review the filing for completeness and compliance with state law, rejecting around 15% of the initial filings. We mail notices of the sale and their rights to the borrowers, property owners, lien holders, and other interested parties, and also notify the general public of the sale. We ensure that lenders respect the borrower's right to cure their default before sale and monitor compliance with Colorado's foreclosure deferment program. Before taking the property to sale, we inspect the lender's bid to ensure that it does not reveal a previously undetectable problem with the foreclosure filing; if we find one, the foreclosure will either be delayed or even withdrawn entirely. After the public auction, we manage the rights of junior lien holders to redeem their interest 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 lien holders and the property owner as directed by the law.

On average, our earned revenue per foreclosure closed, after applying the charges set by the State Legislature for different steps in the process, is a bit over \$200. In 2014, we earned revenue of \$383,058.48 while closing 1,980 foreclosures. We project that we will close 1,587 foreclosures in 2015, earning revenue of \$320,574. Our 2016 budget estimates a continued decrease in the number of foreclosures closed to 1,298, resulting in earned revenue of \$262,196.

We also receive a very small amount of revenue from interest earned on deposits, revenue adjustments to balances less than \$5, and for printing copies of documents. In 2014, we earned revenue of \$1063.40 from these sources. We project that we will earn \$846 from these sources in 2015. Our 2016 budget estimates a small decrease in this amount, to \$804.

In 2014, our total revenue was \$800,911.88. We project that we will earn \$876,420 in 2015. Our 2016 budget estimates a decrease in total revenue, to \$833,000.

In addition to performing our duties well and faithfully, we strive to be good stewards of the public money received. All of our operations are funded by the fees we collect for services provided, we transfer any revenue remaining after our operational expenses are paid to El Paso County. Not only do we have a moral duty to be responsible with public money, the money we save helps El Paso County provide vital services for its residents. We are proud to say that each year from 2007 through 2014 we were able to reduce the cost of running this Office. Some unusual and non-recurring expenses in 2015 have interrupted this trend, but we expect it to resume in 2016.

In 2014, we spent \$424,390.74 on salaries and the El Paso County benefit package that we participate in. This covered 6.0 FTEs, including the Public Trustee. We project that we will spend \$393,645.64 on salaries and benefits in 2015, with our staffing reduced to 5.6 FTEs, including the Public Trustee. Our 2016 budget estimates \$399,669.41 for salaries and benefits. This budgetary increase is largely a contingency. While we will have reduced staffing to 5.0 FTEs, including the Public Trustee, we are leaving the full benefits package for the 6<sup>th</sup> FTE so we would be able to hire back into that position if workload increases. We also have included funding for re-hiring a part-time deputy if workload increases. In either case, revenue will also have exceeded expectations.

In 2014, we spent \$61,442.16 for services provided by El Paso County. These services include our office space (including security and janitorial services), use of the County Attorney, Employee Benefits, payroll services, and support for our single link to the County's computer network (used for electronic releases and payroll). We project with certainty that we will spend \$50,354.04 in 2015 for services provided by El Paso County. Our 2016 budget projects that we will spend \$52,872 for services provided by El Paso County based on the Cost Allocation Plan. We have not yet received 2016 figures from the County, so this estimate is based on an estimated 5% increase.

In 2014, we spent \$48,598.06 on other operating expenses. Two-thirds of this was on our annual audit and information technology. We project that we will spend \$96,217.62 in 2015 on other operating expenses. This gigantic increase is due to a set of unusual, infrequent costs. El Paso County asked us to move to new County office space, which cost \$33,320.60. We also needed to replace our 2007-vintage Windows XP workstations, at a cost of \$9,818.22. Finally, as part of the move, the County directed us to purchase a new telephone system, at a cost of \$5,106.12. Our 2016 budget projects that we will spend \$59,383 on other operating expenses.

In 2014, our total expenses were \$534,430.96. We project that our total expenses will be \$540,217.30 in 2015. Our 2016 budget estimates \$531,924.41 in total expenses. I believe in budgeting conservatively, with room left for unexpected contingencies. Thus the 2016 budget includes an additional \$10,000 in the salaries and benefits category, which would most likely be applied to payout of accrued leave for employees who leave the Office, overtime, or hiring a temporary worker. Our 2016 budget includes an additional \$10,000 in the other operating costs category, which would most likely be used for unexpected legal fees or equipment failures.

Each year, what remains of our earned revenue after payment of our operating expenses ("excess revenue," in shorthand), is paid to El Paso County for use in the following year's General Fund. Those amounts are modified by any adjustments to our operational reserve, which by law must equal the prior year's total operating expenses. Calculation of excess revenue is slightly more complicated than subtracting expenses from revenue, because while our budget is based on cash accounting, we need to back out certain accruals, most prominently the postage balance in our mailing machine, from what we can actually send to the county.

In 2014, our excess revenue totaled \$315,098.19, which included a \$49,087.22 reduction in our operational reserve. We project that our 2015 excess revenue will be \$364,972.75, which includes a \$28,770.05 reduction in our operational reserve. Our 2016 budget estimates excess revenue will be \$327,696.85, including an estimated

\$26,621.26 reduction in our operational reserve – we are not including the costs associated with the move as part of our ordinary operating expenses for the reserve.

If you have any questions or comments about this budget, please attend our public hearing on Wednesday December 2 at 10:00 in our offices at 105 East Vermijo, Suite 120 – the hearing will immediately precede the foreclosure auction for that week. You also may call me at 719-520-6787 or submit written comments to [thomasmowle@elpasopublictrustee.com](mailto:thomasmowle@elpasopublictrustee.com).

Best regards,

A handwritten signature in black ink, appearing to read 'T. Mowle', followed by a horizontal line.

Thomas S Mowle  
El Paso County Public Trustee