



Foreclosure Sale Policy

Effective Wednesday, October 14, 2015

Cynthia D. Mares, Public Trustee

Sales are held every Wednesday at 10:00 a.m. at the Arapahoe County Administration Building, East Hearing Room, 5334 South Prince Street, Littleton, CO 80120. The auction is a legal procedure and must begin at 10:00 a.m. Doors open at 9:30 a.m. for bids to be submitted before the sale begins.

The Public Trustee issues NO express or implied warranty on the properties offered for sale. Please do your due diligence before bidding. Complete a separate bid sheet for every property on which you plan to bid.

Rules During Sale

- Bidders must personally attend the sale. A bidder who cannot attend the sale, can have a third party bid for them on the condition they bring a notarized letter of agency pursuant to C.R.S. § 15-14-607.
- Cell phones and other electronic devices are allowed during the sale, but they *must* be silenced before the sale begins. Failure to adhere to this rule may result in expulsion from the sale.
- Talking or visiting is not allowed during the sale, and will be strictly enforced. Any discussions must be done outside the sale room and prior to sale. If this rule is violated, you may be banned from future sales. The sheriff is instructed to escort anyone talking out of the room for the duration of the sale.
- Any disruptions of the foreclosure sale process will not be tolerated and may violate C.R.S. § 6-4-106 (bid-rigging), C.R.S. § 18-8-306 (attempt to influence a public servant), C.R.S. 18-9-108 (disrupting a lawful assembly), C.R.S. § 18-

8-102 (obstructing government operations), and/or C.R.S. § 18-9-110 (public buildings – trespass, interference).

- The Public Trustee verifies all funds on submission of a bid sheet.
- Sale of properties is done in chronological order (oldest first).
- The sale is final once all funds are collected and the Public Trustee announces that the property is struck and sold. The Public Trustee does not have authority to set aside any sale after her announcement that the property is struck and sold.
- The Public Trustee will start the sale with the highest bid submitted. It will then proceed to open bidding, with each bidder raising their hand, to be acknowledged by the Public Trustee.

Bids

- Complete the most current Bid Sheet, available at www.arapahoegov.com. Copies will also be available before and during the sale. You can find information such as the foreclosure number or whether a property is still scheduled for sale on our website at www.arapahoegov.com under “Foreclosure Property Search” or call the Public Trustee’s office at 303-730-0071 for assistance. The Pre-sale list will be posted to the website by 3:00 p.m. two business days before the sale as well as 4:00 p.m. the day before the sale.
- The bidder must state their name and the amount of their bid. Bidders must remain in sight of the Public Trustee or deputy handling the sale.
- The bid must be at least \$1.00 over the lender’s minimum bid. All subsequent bids must be in increments of at least \$500.00.
- The submission of a bid on a property is *binding*. You may not withdraw your bid once it is submitted. **Do not submit your bid sheet unless you are sure**

you want to bid on a property, even if it is after the foreclosure sale begins (at 10:00 a.m.). If you are unsure whether you want to bid on a property, wait to submit your bid sheet until after the sale starts and until that particular property is announced by the Public Trustee. The Public Trustee will call for any additional bids.

- It will not be disclosed whether there are any other bidders on a property. Your bid is binding, even if you are the only outside bidder on the property.
- Once the highest bidder is determined, the Public Trustee will verify the funds before announcing that the property is struck and sold. If the highest bidder fails to submit the amount of funds needed to finalize the sale, the Public Trustee will immediately reopen the auction at the next highest bid submitted.
- In the situation where the highest bidder does not have the funds necessary to complete the sale, they will be banned from the next four (4) sales and will be required to show all funds before any future bidding. The Public Trustee keeps a list of any bidders who failed to have all funds for any particular property and will report the incident to the Office of the State Attorney General. The four-sale ban will apply to the bidder, their agent, and any of their companies, as this could be considered bid-rigging or a fraudulent transaction. Other action against that bidder and/or their company or companies may also occur.

Payment

- One cashier's check cannot be used to purchase two separate properties. We will not apply any refund due on one property to another property.
- Bidders must bring certified funds payable to the Arapahoe County Public Trustee, or cash to the sale.
- Bidders who plan to pay with *any* amount of cash, must indicate so on the bid sheet. The funds will be counted by the Arapahoe County Treasurer; therefore, the sale of that property will be moved to the end of the list as this will delay

the sale. If wire funds are received and that person is not the successful bidder, funds will be refunded by check, not a wire transfer.

- Wire transfers are accepted if they are received and verified by the Public Trustee by 3:00 p.m. the day prior to sale. There is a \$25 wire fee.
- All sales are final. Please do your due diligence on the property before bidding on any property. The Public Trustee cannot set aside a sale once it is announced that the property is struck and sold. Any request by a non-lender to set aside a sale, or by a lender outside the statutory eight (8) business-day window (C.R.S. § 38-38-113), is outside the jurisdiction of the Public Trustee and must be handled in a court of law.
- If the funds submitted for payment of the winning bid exceed the amount of the bid, the Public Trustee will issue a refund after five (5) business days. The check will be mailed to the winning bidder unless a request is made on the bid sheet for it to be held for pick-up. Alternatively, the winning bidder can choose to submit a cashier's check or certified funds for the exact amount, to the Public Trustee by noon on the sale date.

The Winning Bidder – What Happens Next?

- No later than five (5) business days after the sale, the Public Trustee will execute and record a Certificate of Purchase. For details, see C.R.S. § 38-38-401. Recorded copies of the Certificate of Purchase are available from the Arapahoe County Clerk and Recorder. Unofficial copies are available on the Public Trustee's website.
- If the successful bidder is the holder of the evidence of debt, the foreclosing attorney or the holder of the evidence of debt may rescind the sale any time within eight (8) business days after the sale. C.R.S. § 38-38-113.
- If the successful bidder is a third party, the sale can only be set aside by court order.
- Execution of the Certificate of Purchase does not transfer title and the highest bidder (grantee named in the Certificate of Purchase) does not have immediate right of access to the property. The Certificate of Purchase is simply evidence

of the investment made. Ownership of the property occurs only once title vests as set forth in C.R.S. § 38-38-501. Therefore, the highest bidder (grantee named in the Certificate of Purchase) cannot evict someone from the property prior to title vesting.

- If a valid Intent to Redeem is filed by a junior lienor within eight (8) business days after the sale, the holder of the Certificate of Purchase will be contacted by the Public Trustee for a signed and notarized Redemption Statement that complies with C.R.S. § 38-38-302.
- The Public Trustee, including any of her employees, cannot give legal advice. Please consult with an attorney if you have any questions about your rights.

Information for Lenders

- Lenders can submit amendments to their bids until noon the day before the sale by notifying the Public Trustee by email, or orally at the time of sale if the person amending the bid is physically present at the sale and modifies and executes the bid before the bidding starts.
- Lenders may send a representative to participate in competitive bidding, but the representative must be disclosed to the Public Trustee in writing prior to the sale. The lender does not need to provide funds to the Public Trustee if it is the high bidder and there is a deficiency remaining on the property.