Foreclosure Update

By Richard P. Howe Jr.

The foreclosure market in Lowell and Greater Lowell continues to be active. Through November, there were 69 foreclosure deeds recorded for properties in Lowell. Projected through the end of the year, that would be 77 Lowell foreclosure for 2015, a modest decrease from 82 in 2014. (There were 73 in 2013 and 155 in 2012). In the nine Middlesex North towns besides Lowell, there have been 111 foreclosure deeds recorded through November which would project to 121 for all of 2015. This would be a significant increase from the 73 in 2014. (There were 77 in 2013 and 187 in 2012).

The other document prominent in the foreclosure process, the order of notice, has had its numbers rise considerably in 2015 for both Lowell and the district towns. In 2014, there were 127 orders of notice filed for properties in Lowell. Through November 30, 2015, there were 194 which would project to 212 for the year (there were 130 in 2013 and 334 in 2012). In the nine district towns, there were 220 orders of notice in 2014. In the first eleven months of 2015, there were 254 which projects to 277 for the entire year (there were 203 in 2013 and 425 in 2012).

Scrutinizing this year’s Lowell foreclosures reveals some changes in lender behavior. At the start of the foreclosure crisis back in 2007, almost every property was purchased at auction by the foreclosing lender. Third parties were the high bidders in only 5% (12 of 247) of the foreclosure deeds recorded that year. In 2015, third parties were the purchasers in 22% (15 of 69) of foreclosure deeds. Of those third parties, six were LLCs or realty trusts and nine were individuals although several of the individuals listed mailing address outside of Lowell which

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suggests they were purchasing the properties as investments rather than personal residences. In only 25 of the 69 foreclosures in 2015 was the foreclosing lender the purchaser at the auction. In 28 cases, the property was sold at the foreclosure auction to Fannie Mae and in one case, it was sold to the Massachusetts Housing Finance Agency.

The properties purchased at auction by the foreclosing lender or by Fannie Mae in 2015 were sold to third parties in subsequent deeds faster and more often than in 2007. Back then, REO properties were sold on average 127 days after the recording of the foreclosure deed. In 2015, the interval between REO purchase and subsequent sale to a third party was down to an average of 87 days.

Even though their numbers are relatively low, foreclosures are so disruptive to the homeowners involved, to their neighbors, and to the cities and towns in which they live, that the causes and effects of foreclosures should be closely and continuously studied.

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In February and August 2014 I wrote about Senate Bill 1987, “an act clearing titles to foreclosed properties,” which was then pending before the Massachusetts state legislature. Although the legislature passed that measure which was a response to the Supreme Judicial Court’s 2011 holding in *U.S. Bank National Association v. Ibanez*, Governor Deval Patrick returned it to the legislature with suggested changes. Because that occurred after the legislative session had ended for the year, it effectively killed the bill.

During this past session, the legislature again passed the original bill, now known as Senate Bill 2015 and Governor Charlie Baker immediately signed it. This new law, which will amend Massachusetts General Laws chapter 244, section 15 effective December 31, gives foreclosed owners a three (3) year statute of limitations to file a challenge to a foreclosure, after which the foreclosure is deemed to have been conducted legally.

This bill sought to balance the rights of homeowners who lost their homes to improperly conducted foreclosures with those of innocent third parties who subsequently purchased foreclosed properties. There is no perfect solution to this problem but as I have previously written, this bill properly balances the equities and is probably the best result possible.
Every year across the state of Massachusetts, a large population suffers from certain exposures to chemicals, fires and gasses, that often and unfortunately, lead to fatality. Some of these exposures are from mixing chemicals like ammonia and bleach, which can be instantly toxic or even inert gases that are colorless, and odorless. They can spread through your home without a trace, and swiftly silence beloved ones. Gasses such as carbon monoxide and radon kill a large number of individuals each year. The dangers of carbon monoxide are well-known, but awareness of radon gas should also be a huge priority in homes within the Merrimack Valley.

Radon gas is very different from carbon monoxide, but also has similarities in its form. This inert gas is also colorless and odorless; however it enters the home in a very different way. Radon results from the decay of the naturally occurring radioactive element known as uranium, which is common in virtually every type of soil. Being a naturally occurring element, there is no way to avoid radon entirely. The Environmental Protection Agency estimates there are between 5,000 and 30,000 cases of lung cancer associated with radon gas each year and of that number, there are nearly 21,000 deaths from cancer due to exposure from radon gas. Radon is also the number one cause of lung cancer in non-smokers. The statistics are grim, but what seems more concerning is the fact that there is very little awareness of radon, as well as no laws mandating the use of mitigation systems and alarms or detectors of radon gas.

Radon gas seeps through the cracks and crevices of the foundation of homes, or through the walls and these gases build up in open spaces, such as ceilings, basements and even in pipes. The water supply coming into homes can also be contaminated with radon gas. Most homes in the Merrimack Valley have municipal water supply that is rigorously examined and sanitized, however radon can still seep into the pipes, those with well water on the property, have a strong likelihood of radon gas in the soil of the well. When this gas builds up in the home, it is inhaled, but again, being an inert gas, it reacts with nothing and you exhale it. However, when radon-222 decays to polonium-210 and lead-210, they form heavy metals that can be extremely sticky, which attach to dust particles, and are then inhaled leading to radiation exposure within the lungs. Radon gas is potentially dangerous, but with awareness and technology, preventing radiation exposure and even carcinogenic effects or death is certainly possible.

Because some level of radon gas is found in practically all soils, it is safe to assume that radon gas could exist within any Merrimack Valley home. If you have recently bought a newly constructed home, it may be incredibly energy efficient, and densely insulated making it more air tight than older constructed homes. Nevertheless, this makes a newer home more likely to trap radon gas inside. The best way to know if this threat exists is to test for radon gas. You can buy a test kit at local do-it-yourself retail or hardware stores for a low as $15-$25. If the radon levels are 4 pCi/L ( pico curies per liter) or higher you may need to have a radon mitigation system installed to lower the radon levels. The cost for existing homes may range from $1,000-$1,500. Being aware of dangers such as radon gas is extremely important to ensure that occupants live in a healthy home environment.

http://www.radon.com/radon/radon_facts.html
https://www.bostonglobe.com/metro/2014/12/26/deadly-fires-plagued-massachusetts/F20Meg2a2m1nLh6t7K2ybO/story.html
http://ma-radon.info/MA_general.html
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- Up to $12,000 available, per unit, for multi-family homes
- FREE Lead Inspection and Project Management
- FREE Soil Testing

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