

Merrimack Valley

housingreport

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Rental Affordability Challenges on the Horizon

By: Victoria Cote

A study at the Harvard Joint Center for Housing Studies looked at the price of renting housing as a percentage of a households' income throughout America. This study discovered that the struggle for people to pay for housing is continuing to increase. About half of renters in the United States pay at least 30% of their income toward rent. The Merrimack Valley Housing Report team decided to look at the cost of renting (as a percent of household income) in the 4 main cities of the Merrimack Valley, and compare them to the costs in Boston and Massachusetts.

The chart shown on page 2 shows that the Merrimack Valley seems to be experiencing the same troubles in affordable housing as the rest of the United States. While some cities are fairing worse than others, all of the cities show that about half of renters pay 30% or more of their income toward renting housing. This trend is also seen in Boston and in all of Massachusetts.

Out of all the cities in the Merrimack Valley,

Lawrence is experiencing the most trouble with affordable renting. Sixty one and three tenths percent (61.3%) of renters pay more than 30% of their income toward rent, which is the highest of all the cities. It is also a higher percentage than Boston and Massachusetts overall. The percent of renters paying less than 30% (38.7%) in Lawrence is lower than other areas in the study, which means the city of Lawrence is having challenges providing affordable rental housing for its residents.

The city of Lowell seems to be doing the best out of all of the areas studied. It is the only location where the percentage of people paying lower than 30% of their household income toward rent (50.6%) is higher than the percentage of people paying more than 30% of their income toward rent (49.5%). While this is better than Boston, Massachusetts, and the cities in the Merrimack Valley, this still indicates that rents are unaffordable for a large percent of the population.

(continued on page 2)

Deeds, Mortgages, Foreclosures and Orders of Notice Recorded

January 2013 and January 2014 compared

	Haverhill		Lawrence		Lowell		Methuen	
	Jan-13	Jan-14	Jan-13	Jan-14	Jan-13	Jan-14	Jan-13	Jan-14
Deeds	84	88	66	56	110	108	70	57
Mortgages	181	101	104	64	267	136	200	93
Foreclosure Deeds	6	7	5	8	14	3	16	3
Orders of Notice	27	2	29	3	36	4	4	7

Rental Affordability Challenges on the Horizon Continued

Methuen and Haverhill are experiencing fairly similar difficulties with rental affordability. Slightly less than half of the population is not burdened by their rental cost, while slightly more than half of the population is burdened. While Methuen's population is struggling slightly more with 55.9% of its renters paying more than 30% of their income, Haverhill is also challenged with 51.7% of the rental population experiencing a burden.

This data shows that the communities in the Merrimack Valley are struggling comparatively to Boston and the state of Massachusetts. The Harvard Joint Center for Housing Studies indicated that not only have the percent of renters paying more than 30% of their income on housing increased over the last five years, but also the percent of those individuals paying more than 50% of their income has increased. Although we do not have access to data indicating what percentage of renters in the Merrimack Valley are paying more than 50% of their income on housing, we can reasonably conclude that it would be similar to the state of Massachusetts considering how close the other data follows. Rental housing, which used to be an affordable alternative to buying a home, is quickly becoming less accessible. This is happening all over the United States and in the cities nearby. High rental costs make it difficult for renters to afford not only housing, but also other necessities such as food and healthcare. This raises concern for the future of our communities.

Cost Burden

Cost Burden (% of Household Income)	Lowell	Lawrence	Haverhill	Methuen	Boston	Massachusetts
Below 30%	50.6%	38.7%	48.3%	43.9%	47.8%	49.7%
Above 30%	49.5%	61.3%	51.7%	55.9%	52.2%	50.3%

An Act Clearing Titles to Foreclosed Properties

By Richard P. Howe Jr.

The Massachusetts State Senate recently passed Senate bill S1987 which is titled “an act clearing titles to foreclosed properties.” The bill now proceeds to the house and, if it is enacted there, to the governor for his signature. This bill which would amend Massachusetts General Laws chapter 244, section 15 to limit the time for challenging a foreclosure in court, is a response to the Supreme Judicial Court’s 2011 holding in *U.S. Bank National Association v. Ibanez*.

In *Ibanez*, the foreclosing lender that purchased property at auction brought an action to quiet title due to questions about the timeliness of assignments of the mortgage that had been foreclosed. The SJC upheld the trial judge’s decision to invalidate the foreclosure because the foreclosing bank had never been assigned the mortgage that was foreclosed. The SJC stated that a formal, recorded assignment is not absolutely necessary (although it would be preferred) but that other documentary evidence could be offered to establish the fact of a timely assignment. The Court also applied this holding retroactively which called into question the title of many previously foreclosed properties since the routine practice in the real estate field was to record necessary assignments after the foreclosure or sometimes not at all. As a result of *Ibanez*, every property with a recent foreclosure in its chain of title became suspect.

Under current law, the homeowner who lost the property in foreclosure at any time after the foreclosure could start an action disputing the propriety of the foreclosure. Since a fundamental premise of real estate law is that a person can only convey what he owns in the first place, a claim that the lender that conducted the foreclosure never owned the interest granted by the mortgage, if successful, would void the foreclosure along with the ownership rights of any subsequent purchaser of the property.

Senate bill S1987 is an attempt to cap the period during which such a claim may be raised. The existing section 15 requires the foreclosing party to record an affidavit that “fully and particularly” states the acts involved in the foreclosure at the relevant registry of deeds. The amendment made by S1987 would set the filing of this affidavit at the registry of deeds as the start of a three year statute of limitations on making such a claim. While that period of uncertainty would persist during those three years, it would not extend infinitely but would have a clearly identified end point. S1987 would allow the running of this statute of limitations to be tolled by the commencement of a lawsuit or by the raising of the issue in an answer or counterclaim by the party that lost the home to foreclosure. The existence of such a lawsuit would be established by recording a copy of the complaint or relevant pleading at the applicable registry of deeds.

This whole area of real estate law is best described as a mess brought on my sloppy practices by lenders. Still, many innocent third party purchasers now find their titles jeopardized by the uncertainty of *Ibanez*. While S1987 may not be the perfect solution to the problem, it’s much better than the status quo.

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