

# Merrimack Valley

## *housingreport*

An e-publication of UMass Lowell and the Middlesex North Registry of Deeds



University of  
Massachusetts  
Lowell

MIDDLESEX NORTH  
REGISTRY OF DEEDS

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## Digging into Deeds

By Richard P. Howe Jr.

Recording statistics for February sent a mixed message. The number of deeds and mortgages recorded was up considerably, but so was the number of orders of notice. With spring approaching, it's appropriate to focus on the good news, so we'll set aside the rise in new foreclosures for now and look at the deeds recorded in Lowell during February 2012, searching for evidence of positive trends.

To establish the baseline, there were 112 deeds for properties in Lowell recorded in February 2012 which was a 38% increase from the 81 recorded in February 2011. This February also performed better deeds-wise than the prior month, with the 112 in February representing a 22% jump from the 92 recorded in January 2012.

Given that in good times and in bad, February is the slowest month for real estate, this jump in the number of deeds recorded has to be seen as good news. But it also invites the question: what kind of deeds are these

that are being recorded? To answer this, I looked at each of the 112 deeds and grouped them into one of several categories. The categories are as follows:

- Transfers into or out of a family trust by a family member
- Family to family transfers, for example, a husband and wife to just the wife or a surviving parent to children
- Confirmatory deeds that correct or clarify an earlier recorded deed
- Arms-length sale is a sale between unrelated parties with the seller having acquired the subject property within the past fifteen years
- Estate or long-time owner sale to a third party is a sale from a person who has owned the subject property for more than fifteen years to an unrelated third party (also includes sales by estates of decedents).
- Previously foreclosed property is a sale of property that was previously foreclosed in which the seller is most likely the entity that conducted the foreclosure.

Con't on Pg 3

## Deeds, Mortgages, Foreclosures and Orders of Notice Recorded

February 2011 and February 2012 compared

	Haverhill		Lawrence		Lowell		Methuen	
	Feb-11	Feb-12	Feb-11	Feb-12	Feb-11	Feb-12	Feb-11	Feb-12
Deeds	70	75	57	65	81	112	47	71
Mortgages	119	148	86	80	146	182	112	165
Foreclosure Deeds	7	13	9	12	9	7	5	7
Orders of Notice	18	22	14	23	19	36	11	17

## National Foreclosure Settlement

By: *Mike Poore*

The month of February marked a month in which a “landmark” settlement for 49 states Attorney Generals was completed. The deal is worth a total of \$25 billion and will be split up among the individual states. Massachusetts, for example will receive \$318 million, where Florida will receive \$8.1 billion; the hardest hit states will receive substantially more than the lesser impacted states. The \$381 million dollars will be spent in several ways. The first portion, \$14 million is for cash payments to homeowners who have already been foreclosed upon, the second portion, \$257 million, is for mortgage relief and the third portion, \$46 million will be used for state assistance to homeowners, such as housing and foreclosure counselors. The country as a whole should see nearly 1 million households with reduced loans and up to 750,000 Americans will be eligible for the \$2,000 one time cash payment.

The settlement stems from 5 of the nation’s largest banks, Bank of America, JPMorgan Chase, Wells Fargo, Citigroup, and Ally Financial, who were involved in widespread mortgage fraud; such as the ROBO signing scandal, and to a lesser degree the Mortgage Electronic Registry System (MERS). The scandal began to unfold in the fall of 2010 when the five banks stopped foreclosure proceedings across the nation. The Associated Press described ROBO signing as a “variety of practices. It can mean a qualified executive in the mortgage industry signs a mortgage affidavit document without verifying the information. It can mean someone forges an executive’s signature,

or a lower-level employee signs his or her own name with a fake title. It can mean failing to comply with notary procedures. In all of these cases, robo-signing involves people signing documents and swearing to their accuracy without verifying any of the information.”

The stoppage of foreclosures in 2010 has created a backlog among lenders and increased orders of notice are beginning to be felt now. Orders of Notice have been up over the past several months, and this month each of the four valley cities saw increases. Lowell saw the biggest boost year over year with an almost 50% increase.

There are two Massachusetts-specific issues that Attorney General Martha Coakley has been able to keep open, which “refer to claims that banks illegally foreclosed on properties without holding the deed and that the electronic registration system concealed the identities of mortgage-holders.” The MERS scandal has been drawn out due to the complexity of the MERS system. The electronic system was set up due to inefficiencies in the industry as lenders needed to record increasing numbers of documents during the housing bubble. By 2007, MERS registered nearly 60% of all new home loans. The system was set up to serve several purposes, the first was for investors to transfer mortgages without recording in local public agencies to avoid fees, and the second was for industry professionals to easily identify the current holders of a mortgage. Con’t. on Pg 4

### Looking to Showcase Your Vacancy or Looking to Move?

**Community Teamwork Inc. (CTI) developed a new website designed to help landlords showcase their vacancies, and tenants to easily find them.**

**This free service is offered throughout the Merrimack Valley and the North Shore.**

**For more information go to:**

**[www.nearlistings.org](http://www.nearlistings.org) or contact Avi Glaser at [aglaser@comteam.org](mailto:aglaser@comteam.org)**

## *Digging into Deeds Con't from Pg 1*

Of the 112 deeds recorded in Lowell during February 2012, the biggest group was arms-length sales with 35 deeds representing 31% of the total. Next came family to family transfers with 24 deeds for 21% of the total. Sales of previously foreclosed properties to third parties were the case in 17% of the transactions (19 deeds) and sales by estates or long-time owners to third parties represented 15% (17 deeds). Transfers into or out of a family trust accounted for 14 deeds for 13% and there were three confirmatory deeds representing 3% of the total.

These six groups can be divided into two major categories: transfers for consideration and transfers without consideration (with “consideration” being used in the legal sense of something of value changing hands). The arms-length sale between unrelated parties, the estate or long-time owner sale and the previously foreclosed property sale are all “for consideration” transactions. They accounted for 63% or nearly two-thirds of the February 2012 deeds for Lowell. Transfers into or out of trusts, family to family transfers and confirmatory deeds are all transfers without consideration. They accounted for 37% of the February deeds or just more than one-third of the total. Whether the February ratio of two-thirds for consideration sales to one-third without consideration transactions is the norm cannot be determined until a similar study is conducted on deed records for other months.

Within the arms-length sale between unrelated parties category, the average sales price of the February 2012 deeds was \$156,919 which was 9% below the average price paid when the 2012 seller originally acquired

the property (\$171,735). That percentage decrease is a very broad generality because when a property was purchased has much to do with the change in value at the time of a current sale.

For instance, properties purchased after 2003 when the housing boom commenced and sold in 2012 lost a larger percentage of their value than homes purchased prior to 2003 which sometimes lost but often increased in value. The property at 12 Virginia Ave, for example, was purchased in 2001 for \$160,000 but sold last month for \$295,000. Examples of large losses suffered on houses purchased during the boom years would include 27 Pine Hill Street, Unit 27, which was purchased in 2003 for \$140,000 but sold in 2012 for \$115,000; or 657-659 Stevens Street which was purchased in 2004 for \$315,000 but sold in 2012 for \$105,000.

Without a very large pool of samples, making assertions about price changes of real estate over time is an inexact science. There are too many variables. Still, it does seem safe to say that prices are not soaring or even rising in any noticeable manner. That so many of the February sales are either foreclosure related (17%) or long-time owners disposing of properties (15%) suggests that owners with price-flexibility are able to sell, while those who purchased while the market was at its peak are in many cases prohibited from selling not because of the likelihood of taking a loss on the sale but because of the reality of being underwater on the purchase mortgage. Only after prices rebound or owners in this situation pay down a considerable amount of the mortgage principal will the sales market become strong once again. █

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**Merrimack Valley Regional Network to End Homelessness  
&  
Community Teamwork Inc.**

## *National Foreclosure Settlement Con't from Pg 2*

The courts have presided over several cases involving this system such as Mortgage Electronic Registration Systems, Inc. v. Lisa Marie Chong, et al. (United States District Court, District of Nevada), Landmark Nat'l Bank v. Kesler (Kansas Supreme Court), and Residential Funding v. Saurman (Michigan Supreme Court). The Kansas case was brought to court due to MERS enacting a foreclosure as the “nominee” for the servicer. In this instance the promissory note and the deed of trust were separated, it was ruled in Kansas that MERS cannot foreclose upon homeowners as the “nominee” for the lender without the promissory and the deed of trust being together. Since these transfers are not registered at local deeds, there is no way to tell, other than from the MERS system, who is the owner or servicer of the mortgages. The Michigan case was based off similar circumstances that MERS had interest in the debt of the mortgage registered through their

system. It was ruled that MERS is the “owner of an interest in the indebtedness” which does not equate to an ownership interest in the note. Rather, as a record-holder of the mortgage, MERS owned a security lien on the property, the continued existence of which was contingent upon the satisfaction of the indebtedness.”

According to Martha Coakley this settlement may be the first of many, quoted by the Boston Globe “by no means is this settlement the end of our work seeking accountability and relief.... This is only five banks ... We have Fannie and Freddie. We have 19 other lenders.” It will be interesting to see how this plays out for the homeowners involved. Programs currently in place to combat the foreclosure problem have had somewhat lack luster results; keeping as many homeowners as possible affordably in their home should be one of the main priorities.█

**Community Teamwork, Inc. would like to inform you  
of a special presentation by Attorney Bryan McCormack titled  
“Asset and Liability Protection, Tax Reduction and Wealth Preservation.”  
Bryan is the co-host of the popular radio show “Money Matters”  
Seating is limited and will be held on April 18, 2012 at 6:30pm.  
For more information contact Avi Glaser at [aglaser@comteam.org](mailto:aglaser@comteam.org)**

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Richard P. Howe Jr., Editor  
[Richard.Howe@sec.state.ma.us](mailto:Richard.Howe@sec.state.ma.us)

David Turcotte, Editor  
[David\\_Turcotte@uml.edu](mailto:David_Turcotte@uml.edu)

Emily Vidrine, Research Assistant /Writer  
[Emily\\_Vidrine@student.uml.edu](mailto:Emily_Vidrine@student.uml.edu)

Michael Poore, Research Assistant/Writer  
[Michael\\_Poore@student.uml.edu](mailto:Michael_Poore@student.uml.edu)

Center for Family, Work, and Community  
University of Massachusetts Lowell  
600 Suffolk Street, First Floor South  
Lowell, MA 01854  
Tel. (978) 934-4682  
[www.uml.edu/mvhousing](http://www.uml.edu/mvhousing)

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