

# Merrimack Valley

## *housingreport*

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University of  
Massachusetts  
Lowell

MIDDLESEX NORTH  
REGISTRY OF DEEDS

### Volume 6, Issue 11 November 2012

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## Fall Foreclosure Activity

*By Richard P. Howe Jr.*

The number of new mortgages being recorded at the Middlesex North Registry of Deeds during the first ten months of 2012 has steadily increased month-to-month, proof that more and more homeowners are able to take advantage of today’s historically low interest rates. Such a rise in refinancing volume has been an early indicator of better times in real estate: when the last boom commenced nearly ten years ago, a spike in refinancings paved the way to higher real estate prices. Hopefully the cause and effect relationship will repeat itself now albeit with a different ending. For now, however, the number of deeds has disappointingly remained stable.

Foreclosure activity would seem to tell a different story even though orders of notice, the first step in the foreclosure process, averaged 60 per month in 2011 and 62 per month for the first ten months of 2012. However, through the early months of 2012, the monthly numbers were trending downward but they suddenly shot up in July and August. Fortunately, the

order of notice numbers dropped to much lower levels in September and October, signaling that a broad increase in foreclosures was not underway (see table below for month-by-month order of notice and foreclosure deed numbers). In fact, the summertime jump may have been a backlog of older foreclosures that accumulated while the lending industry awaited the results of a case before the Massachusetts Supreme Judicial Court.

In that case, *Eaton v. Federal National Mortgage Association* (decided in late June 2012), Mrs. Eaton asserted that the previously conducted foreclosure on her property was invalid because the entity that conducted the foreclosure did not also hold the note at the time of the foreclosure. The factual assertion - about the foreclosing entity not also holding the note - was true and it also described the widespread practice in Massachusetts. (Continued on page 3).

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

*September 2011 and September 2012 compared*

	Haverhill		Lawrence		Lowell		Methuen	
	Oct-11	Oct-12	Oct-11	Oct-12	Oct-11	Oct-12	Oct-11	Oct-12
Deeds	85	93	73	106	120	132	115	89
Mortgages	150	193	73	126	182	261	172	209
Foreclosure Deeds	9	5	21	3	33	11	8	2
Orders of Notice	16	13	23	7	65	40	17	13

## Cities vs. Towns: A Comparison of Market Trends

*By Sarah Pike*

While examining and assessing the constant ebb and flow of the housing market in the four cities of Lowell, Lawrence, Haverhill and Methuen, it is understandable to be curious if the surrounding towns are experiencing similar trends. Taking Lowell and the towns immediately surrounding Lowell as a sample, the assertion could be made that the surrounding towns are following very similar trends.

When comparing data from the third quarter between City of Lowell and the surrounding towns of Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Tewksbury, Tyngsborough, Westford, and Wilmington, it is clear that the economy has impacted these regions very similarly. Mortgages are up significantly across the board. In Lowell the number of mortgages in the third quarter has increased forty two percent (42%) from 517 to 731. In the surrounding towns, the number of mortgages for the third quarter has increased an average of forty nine percent (49%). This increase in mortgages could indicate an increase in the acquisition of mortgages or of refinancing. The historically low interest rates are most likely the cause of this substantial increase.

The city of Lowell has had a small increase of five percent (5%) of deeds from the third quarter in 2011 to the third quarter in 2012. The surrounding towns have experienced an average of a six percent (6%) increase in the same time period. However, that average is drawn from a very sporadic set of data. For instance the highest increase of thirty seven percent (37%) was in Tewksbury, while there was simultaneously a decrease of twenty eight percent (28%) in Billerica. It is difficult to gauge any comparisons on the number of deeds issued in the third quarter between Lowell and the surrounding towns because the towns have a variety of responses regarding deed activity. Some towns have had significant increases, others have had significant decreases and yet others have had very insignificant changes. It may be safe to say that on average the surrounding towns have had similar trends in deed activity; however it would not be safe to say that all towns have had similar experiences with buying and selling properties.

Similar to the mortgage trends, foreclosure trends have been very close in the city of Lowell and the surrounding cities. The entire region had a decrease in foreclosures. In Lowell, there has been an eighteen percent (18%) decrease. The average decrease in foreclosures for the surrounding towns is twenty one percent (21%). Given the steady numbers regarding deeds and the significant increase in mortgages this decrease in foreclosures can most likely be linked to, federal, state, and local efforts and policy.

Despite the consistent decrease in foreclosures, order of notice activity is as sporadic as deed activity. The city of Lowell had a ninety six (96%) increase. The average of the surrounding towns was a 25% increase in the number of order of notice documents produced in the third quarter. However that average spanned from a one hundred percent (100%) increase in Dracut to an eighteen percent (18%) decrease in Wilmington.

When looking at Lowell and the surrounding towns as an example, it is safe to say that city and towns have experienced very similar waves and trends in the housing market over the past year. However there is enough diversity within those experiences that the city data could not alone accurately predict any one town's experience.

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Because the real estate industry feared that the Court would not only hold that the note must accompany the mortgage but also apply that holding retroactively (thereby invalidating thousands of titles to previously foreclosed homes) most lenders held up on additional foreclosures pending the announcement of the decision.

While the SJC did rule that the entity conducting the foreclosure must also hold the note (or at least be the agent for the note holder), the court held that since the prior law was “not unambiguous” that the new ruling would only apply prospectively, not retroactively, a decision that avoided the title disaster many predicted. With Eaton’s clarification of the law, lenders moved quickly on their accumulated problem loans causing the rise in orders of notice during the late summer.

In a down real estate market, foreclosure deeds tend to follow orders of notice on a one-to-one basis (in a rising market such as 2004, only one in every four orders of notice resulted in a foreclosure deed) so a slight upsurge in foreclosure deeds later this year will probably occur due to the increase in summertime orders of notice. Still, the most recently monthly totals of foreclosure deeds – 25 in September and only 11 in October – are certainly positive news and hopefully an indicator that foreclosures are beginning to fade out of the real estate picture.

Orders of Notice: Monthly and Year to Date for 2011 and 2012

2011	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
MO	27	53	63	115	71	64	52	56	33	65	78	43
YTD	27	80	143	258	329	393	445	501	534	599	677	720

2012	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
MO	46	78	77	44	57	52	85	111	31	40	--	--
YTD	46	124	201	245	302	354	439	550	581	621	--	--

Foreclosure Deeds: Monthly and Year to Date for 2011 and 2012

2011	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
MO	23	23	33	37	44	42	37	40	38	33	40	39
YTD	23	46	79	116	160	202	239	279	317	350	390	429

2012	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
MO	38	24	47	37	29	34	33	30	24	11	--	--
YTD	38	62	109	146	175	209	242	272	297	308	--	--

**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)**

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UMass Lowell and the Middlesex North Registry of Deeds

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)

Sarah Pike, Research Assistant/Writer  
[Sarah\\_Pike@student.uml.edu](mailto:Sarah_Pike@student.uml.edu)

Alicia Restrepo, Research Assistant  
[Alicia\\_Restrepo@student.uml.edu](mailto:Alicia_Restrepo@student.uml.edu)

Institute of Housing Sustainability  
c/o 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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