

# 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

### Volume 4, Issue 2 February 2011

The Order of Notice as an Indicator of Foreclosure Activity.....1  
 Why Smoke Free Housing - Part 2.....2

## The Order of Notice as an Indicator of Foreclosure Activity

By Richard P. Howe Jr.

To begin the foreclosure process against an individual homeowner in Massachusetts, the lender must first file a Petition to Foreclose in either the Land Court or the Superior Court. The purpose of this action is to comply with the Service Members Civil Relief Act, a Federal law that grants additional protections against foreclosure to homeowners who are serving in the US military. The only issue in this lawsuit is whether anyone with an ownership interest in the property is serving in the military.

To ensure that everyone with an interest in the property receives timely notice of the Petition to Foreclose, the court issues an Order of Notice instructing the lender seeking to foreclose to (1) serve the Order of Notice on the homeowner; (2) publish it in the local newspaper; and (3) record the Order of Notice at the registry of

deeds. If the homeowner is in the military, he or she files a response in the court and a hearing is held. In the great majority of cases, however, the law does not apply, no response is filed, and the lender is granted a Default Judgment by the court, authorizing the lender to go ahead with the foreclosure. This step also signals the end of judicial involvement in a Massachusetts foreclosure.

The Order of Notice recorded at the registry of deeds is widely used as an indicator of a pending foreclosure sale. Media reports about foreclosure filings refer to newly recorded Orders of Notice and the underlying lawsuits. While the issuance of an Order of Notice is a clear indication the borrower is in some difficulty, it has been unclear how many Orders of Notice do result in foreclosure.

*Con't on pg 3*

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

January 2010 and January 2011 compared

	Haverhill		Lawrence		Lowell		Methuen	
	Jan-10	Jan-11	Jan-10	Jan-11	Jan-10	Jan-11	Jan-10	Jan-11
Deeds	93	92	79	59	104	114	49	54
Mortgages	131	161	87	83	157	213	119	160
Foreclosure Deeds	19	11	28	10	34	15	6	7
Orders of Notice	44	9	73	7	88	12	24	6

## Why Smoke-Free Housing? -- Part 2

By Emily Vidrine

Part one of this article in the December 2010 issue discussed health risks from exposure to secondhand smoke in the home and elevated exposure to families living in multi-unit buildings that are not smoke-free. Studies show that secondhand smoke in the home increases nonsmokers' risk of heart disease and cancer significantly; elderly and children are at greater risk of tobacco-related illnesses; those with asthma are especially vulnerable to asthma attacks from secondhand smoke; and even the best ventilation systems do not eliminate all tobacco smoke. In an effort to reduce the negative effects of secondhand smoke on families, the City of Boston has been implementing an initiative to make all of its public housing smoke-free.

Efforts to reduce or eradicate smoking in residential buildings makes sense from a public health perspective, but private landlords are also very likely to benefit from going smoke-free. A 2009 market demand study by the Massachusetts Smoke-Free Housing Project concluded that 92% of tenants that live in apartment buildings support smoke-free rules while only 2.5% are in opposition. The same study concluded that 81% of prospective residents are immediately less interested in a property if they smell smoke, and 69% of prospective residents want to know up front if a property is smoke-free. Among condominium owners, 73% are more interested in a listing in a smoke-free building than a non smoke-free building, and 49% of prospective condo owners are willing to pay more to live in a smoke-free building.

In addition to attracting more tenants, property owners who go smoke-free will most likely save money. Landlords can save over \$500 per unit by eliminating

smoke-related property repairs, smoke-free buildings can be cheaper to insure, and landlords will avoid legal liabilities related to tenant exposure to secondhand smoke. Furthermore, going smoke-free can reduce turnover rates and vacancy rates, reduce tenant conflict, and eliminate the leading cause of residential fires.

The study also shows that implementing smoke-free rules is not difficult. 90% of landlords surveyed reported that implementing a smoke-free rule was easy, and 93% reported that the rule was self-enforcing. Despite high demand for smoke-free housing among tenants, the cost savings, and the ease of implementing smoke-free rules, only 29% of multi-unit residential properties are smoke-free. For landlords and tenants that want to go smoke-free, the following resources are available.█

The Massachusetts Department of Health's Smoke-Free Housing Project provides landlords with resources for implementing a smoke-free policy and provides tenants with resources for taking action to live smoke-free.

Web address: [www.makingsmokehistory.org](http://www.makingsmokehistory.org)  
Toll-free phone number: (877)830-8795

The Public Health Advocacy Institute at the Northeastern University School of Law is a legal research center that focuses on public health law and is currently working on tobacco control.

Web address: [www.phaionline.org](http://www.phaionline.org)  
Phone number: (617)373-2026

*The Order of Notice as an Indicator of Foreclosure Activity  
Con't from pg 1*

Most attempts to quantify the ratio of Orders of Notice to foreclosures have been anecdotal and subjective. To arrive at an evidence-based answer to that question, I used data from the Grantor-Grantee Index at the Middlesex North Registry of Deeds to conduct the following query: A list of all Orders of Notice recorded for property in Lowell from July 1, 2006 to June 30, 2010 was generated. Then, a list of all Foreclosure Deeds recorded for property in Lowell from January 1, 2007 to December 31, 2010 was created. The six-month offset was to account for the approximately six month gap between the recording of the Order of Notice and of the Foreclosure Deed for the same property. The two lists were then combined and sorted by address and date. Every Order of Notice on that list was then categorized as (1) having a corresponding foreclosure deed; (2) having no corresponding foreclosure deed; and (3) being a duplicate of another Order of Notice.

There were a total of 2053 Orders of Notice on the list and only 1305 Foreclosure Deeds. The number of Orders of Notice that matched Foreclosure Deeds was 1284 (63%); the number that had no corresponding Foreclosure Deeds was 645 (31%); and the number of Orders of Notice that were duplicates was 124 (6%).

This brief study suggests that every Order of Notice does not necessarily result in a Foreclosure Deed. A borrower who is the recipient of an Order of Notice might avoid foreclosure by (1) negotiating a modification of the mortgage with the lender; (2) obtaining sufficient funds from other sources to bring the mortgage current; (3) refinancing the mortgage; (4) selling the property; (5) conveying the property to the lender with a deed in lieu of foreclosure; or (6) some other outcome. █

---

**The Merrimack Valley Housing Report thanks its major sponsors:**

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

The *Merrimack Valley Housing Report* is published by 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)

Joann Vaillette, Publication Assistant/Writer  
[Joann\\_Vaillette@student.uml.edu](mailto:Joann_Vaillette@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)

This project is funded in part by the Office of the Chancellor and the Office of Outreach. UMASS LOWELL

---

## **Subscribe to the Merrimack Valley Housing Report**

To begin receiving this monthly e-publications, please e-mail David Turcotte at [David\\_Turcotte@uml.edu](mailto:David_Turcotte@uml.edu)