Merrimack Valley

housing*report*

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Deeds for "Nominal Consideration"

By Richard P. Howe Jr.

Each month we report to you the number of deeds and other documents recorded and compare that to the number recorded in the same month of the previous year. This comparison provides a macro view of the real estate market and suggests trends in sales activity. But not all deeds are the same. Most represent arms-length transactions in which a property is sold for the full fair market value, but many other deeds cite as the consideration for the conveyance "$1 and other valuable consideration." This month I decided to scrutinize those deeds to try to better understand how property owners make use of them.

The first question is what percentage of deeds being recorded fall into this $1 category? To measure their frequency, I randomly selected a set of 300 deeds recorded during May and early June of 2011. Of that group, 132 (44%) stated a consideration of $1. To determine whether that was an unusually high percentage, I also looked at a random set of 300 deeds from the same time period in two other years. For 300 deeds recorded in 2006, 109 (36%) stated a consideration of $1, while of 300 deeds from 2008, 153 (50%) stated a consideration of $1. Given that sample, the 44% seen in 2011 seems about average.

The 132 deeds with $1 consideration recorded in 2011 accomplished a variety of purposes but fell into eight general categories. The largest group (40 of 132 or 30%) consisted of deeds executed by individuals or joint owners, usually a married couple, in which they transferred the property to themselves as trustees of a family-type trust. This is often done for estate planning purposes but it also creates a level of confidentiality since the trust's schedule of beneficiaries – the document that explains who gets what – is not recorded at the registry of deeds.

Deeds, Mortgages, Foreclosures and Orders of Notice Recorded

May 2010 and May 2011 compared

	Haverhill		Lawrence		Lowell		Methuen	
	May-10	May-11	May-10	May-11	May-10	May-11	May-10	May-11
Deeds	102	80	105	84	167	119	78	76
Mortgages	133	119	111	89	194	157	120	110
Foreclosure Deeds	8	13	19	14	31	23	15	6
Orders of Notice	9	14	24	15	28	28	22	13

The second largest category (32 of 132 or 24%) involved changes in the number of individuals with an ownership interest in the land. An example of this category would be a single individual who owns property, who then marries, and then conveys an interest in the property to the new spouse, creating a type of joint ownership with a right of survivorship. Outside the legal profession, this is commonly (and inaccurately) called "adding a name to the deed." This category also includes many seemingly random changes in ownership among multiple individuals the purpose of which is not usually clear from the body of the deed.

The third largest category (18 of 132 or 14%) involves the division of assets pursuant to a divorce. Here, the former spouses jointly convey the property to one or the other of them, typically including the language "this conveyance is made pursuant to a decree of divorce," in the body of the deed. The fourth category of $1 consideration deeds (13 of 132 or 10%) involves the creation of a life estate which is ownership measured by the life of one or more people. Deeds of this type typically involve a widowed parent conveying the property to the children of the marriage but reserving a life estate. The so-called "life tenant" (mom) has the right to occupy and use the property for the rest of her life, but immediately upon her death, the owners of the "remainder interest" (the kids) automatically own the property outright without any probate proceedings. Life estates are a common estate planning tool.

The other categories include conveyances out of a trust to one or more individuals (7 of 132 or 5%) which typically occur when the trustee-owners wish to refinance the property and the lender insists on making the loan to individuals and not trustees for borrower-liability purposes. Conveyances by executors also appeared here (5 of 132 or 4%) although the probate estate typically serves as the vehicle that conveys title to property that passes in accordance with a will or an intestate estate, so a deed is usually superfluous. The final group besides the "other" category (11 of 132 or 8%) was business-related transactions (6 of 132 or 5%) in which one corporation transferred to another. Since the consideration was only $1, we may presume the entities involved in such conveyances were related.

As is evident from the above, property law and procedure can get quite complicated. Individuals often call or come to the registry of deeds to try to accomplish some type of ownership change without the expense of a lawyer. While a non-lawyer might be capable of drafting any one of these documents, it is certainly not advisable. Whatever short-term cost savings are realized could easily be eclipsed by the cost of cleaning up a beginner's mistakes.

Helping Homeowners Prevent Foreclosure

By Deborah Mullins

The Home Preservation Coalition of the Merrimack Valley (HPC) is a collaboration of six agencies of which **Community Teamwork, Inc**. is an active partner. The HPC mission is to assist homeowners in resolving mortgage defaults on their debt obligations, improve their housing stability through budget counseling and when home retention is not an option, offer other solutions until the family or individual has been able to transition into new housing.

HPC counselors are HUD certified in foreclosure intervention and mediation through NeighborWorks Training Institute. The counselors take continuing education classes from Fannie Mae, FHA and The Treasury Department and continue to stay apprised of the rapidly changing program guidelines and foreclosure laws.

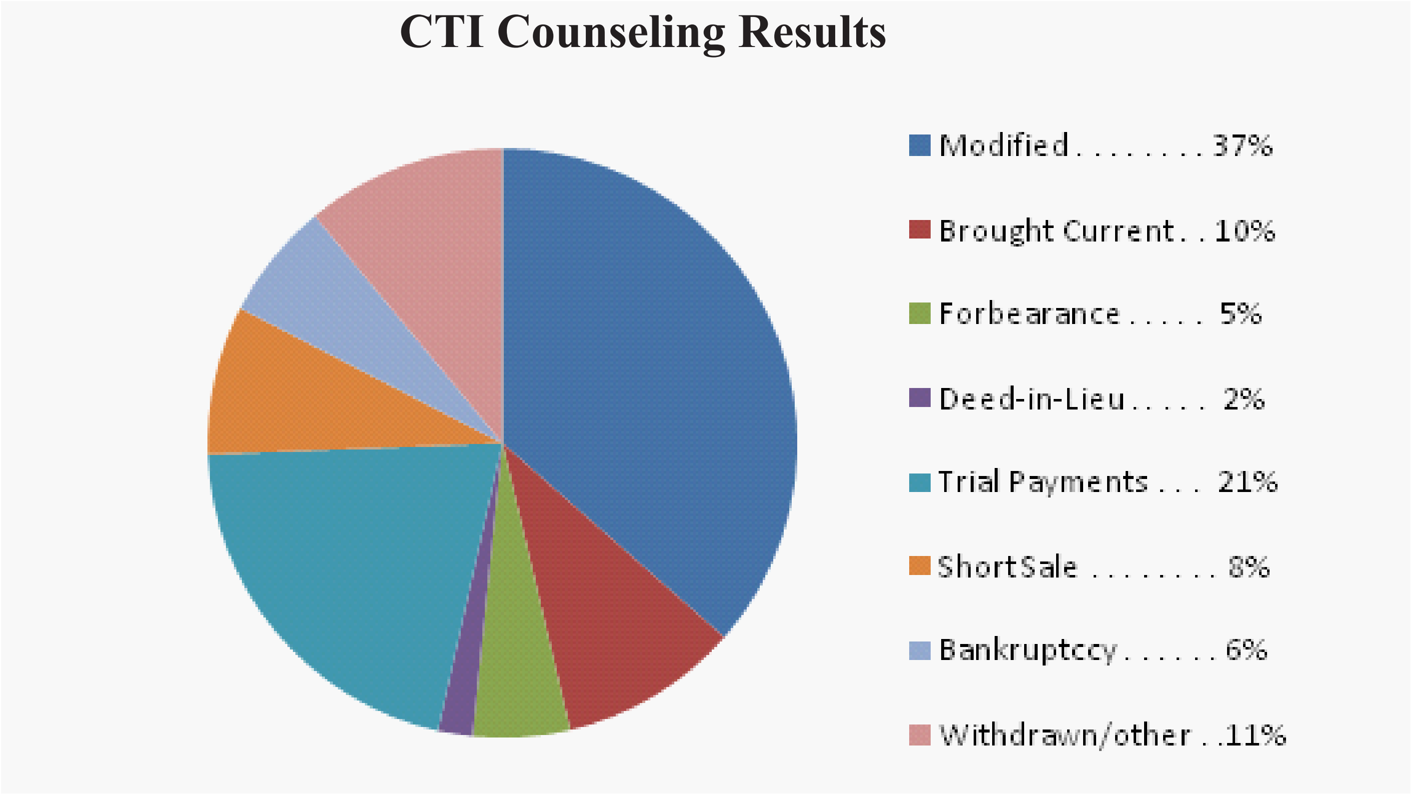
There are laws and regulations in Massachusetts that protect the consumer by not allowing a company to charge an upfront fee for a mortgage modification. Your lender, legislators and regulators suggest using the free service of a HUD Counseling Agency. Find out more by watching a short video from Attorney General Martha Coakley at http://www.youtube.com/watch?v=zakL98-McEE&feature=player_embedded#at=12. Visit www.ma.gov/ago or call 617-727-8400.

The HPC is proud to serve homeowners in helping them reaching their goals. Mortgage lending is a complex industry and the process of loss mitigation even more so. When resolution is reached, our team is delighted homeowners can retain their home and that their financial position has been strengthened. To get started with the HPC program, download the forms at http://www.cbacre.org/home-preservation-center-hpc/foreclosure-forms-info or contact us at 978-970-0600 ext 1. HPC offers bi-weekly workshops on Thursday evenings at 450 Merrimack Street, Lowell starting at 5:30 p.m. Register by calling 978-970-0600 ext 0.

The HPC offers face-to-face counseling sessions with homeowners that are at various stages of default or imminent default. Coming in at the earliest signs of financial trouble is important and encouraged. The initial counseling session will include a review of the closing documents on your loan, a registry review, credit analysis, investor research, creating a budget and completing an "Action Plan". If home retention is the chosen option, the counselor will help you put your package together for the lender and submit.

A recent resolution involved a woman whose income had been reduced due to a disability. She had lost her hearing and it is uncertain whether she will be able to return to work. She had refinanced on a sub-prime loan with negative amortization. After submitting a detailed package to her lender and supplying addition-supporting information, she was modified on an in-house loan modification at a rate of 2.82% for the life of the loan. She is so relieved and is now free to concentrate on training for a new career with the Massachusetts Rehabilitation Commission.

CTI has worked in partnership with our HPC clients to obtain positive results, achieving a 37% modification rate demonstrating commitment from homeowners in working their action plans.



Other loss mitigation products include payment plans, forbearance agreements, short sales and deed-in-lieu of foreclosures.
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