

## **9.     Bank Notified No Receipt of Auction Notice**

- a.   Boyer: USPS Affidavit - No Notice of Sale sent to Boyer's address.
- b.   Gordon: Notice of sale not sent in her name.

## **BOYER: USPS SWEARS NOTICE OF SALE NOT ADDRESSED TO HIM: FORECLOSURE VOID**

In support of Boyer's motion to dismiss, an affidavit from his local U.S. Postal Clerk with attached documentation shows that the Securitized Trust sent the notice of sale to the wrong address. The notice of sale is a required element in a foreclosure by sale so that the homeowner knows when the foreclosure auction will happen. Receiving such a notice is a fundamental right. See Mass General Laws, Chapter 244-14.)

This affidavit shows that the USPS returned the notice as undeliverable; and that the bank never sent it to the correct address. So the Securitized Trust was alerted that Boyer never got the notice to which he had a legal right, and that the Trust itself would violate the law by going forward with the auction anyway. It nonetheless it did go forward.

Nevertheless, Boyer and his family were illegally evicted.

ESSEX, S.S.

NORTHEAST HOUSING COURT  
C.A. NO. 10-SP-02747

U.S. Bank, N.A., Trustee for Credit Suisse  
First Boston, CSFB,

Plaintiff

v.

Joseph Boyer and Nancy Boyer,

Defendants

**AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS**

The undersigned being duly sworn hereby deposes and says:

1. My name is Susan Garvey.
2. I am employee of the Andover Post Office and I have personal knowledge of the format of information set forth in the Exhibit attached.
3. The document attached to this affidavit is a print out of an on-line record of posting and delivery of Certified Mail Letter No. 7160 3901 9848 2536 3353 and Certified Mail Letter No. 7160 3901 9848 2536 3360.
4. Such on-line printouts are prepared as a part of the ordinary course of business by the United States Postal Service.
5. The attached exhibit indicates that Certified Mail No 7160 3901 9848 2536 3353 was posted in West Newton on Nov 28, 2009 and then delivered directly to Harmon Law Office on Nov 30, 2009.
6. The document indicates that Certified Mail No. 7160 3901 9848 2536 3353 was signed by Paul D. Hinley Hinley.
7. The attached exhibit indicates that Certified Mail No 7160 3901 9848 2536 3360 was posted in West Newton on Nov 28, 2009 and then delivered directly to Harmon Law Office on Nov 30, 2009.

8. The document indicates that Certified Mail No. 7160 3901 9848 2536 3360

was signed by Paul D. Hinley Hinley.

9. The print out indicates that each Certified Letter was sent directly from West Newton to West Newton.

10. Neither Certified Mail letter was addressed to Andover according to this record.

Executed under the pains and penalties of perjury this 3 day of 1, 2010,

Susan M. Gay

---

**Track/Confirm - Intranet Item Inquiry - Domestic**

**Tracking Label: 7160 3901 9848 2536 3353**

<b>Destination</b>	<b>ZIP Code: 02461</b>	<b>City: NEWTON HIGHLANDS</b>	<b>State: MA</b>
<b>Origin</b>	<b>ZIP Code:</b>	<b>City:</b>	<b>State:</b>

**Firm Book ID: 5103 0SHG M098 9180 3493**

Event	Date/Time	Location	Scanner ID
DELIVERED	11/30/2009 07:32	NEWTON HIGHLANDS, MA 02461	POS0110161
Input Method: Firm Book			
Finance Number: 240011			
Firm Name: HARMON LAW			
Recipient: 'P HUNLEY'			
[REDACTED]			
[REDACTED]			
ARRIVAL AT UNIT	11/28/2009 11:20	NEWTON HIGHLANDS, MA 02461	030SHGM098
Input Method: Firm Book			

**Enter Request Type and Item Number:**

Quick Search ☒ Extensive Search ☐

[REDACTED]

[REDACTED]

[REDACTED]


Version 1.0

Inquire on multiple items.

Go to the Product Tracking System Home Page.

**Track/Confirm - Intranet Item Inquiry**  
**Item Number: 7160 3901 9848 2536 3353**

**This item was delivered on 11/30/2009 at 07:32**

<b>Signature:</b>	 Paul D Hinkley
<b>Address:</b>	389

<b>Enter Request Type and Item Number:</b>	
<b>Quick Search</b> <input checked="" type="radio"/>	<b>Extensive Search</b> <input type="radio"/>
<input type="text"/>	
<input type="text"/>	
<input type="text"/>	

Version 1.0

Inquire on multiple items.

Go to the Product Tracking System Home Page.

**Track/Confirm - Intranet Item Inquiry - Domestic**

**Tracking Label: 7160 3901 9848 2536 3360**

<b>Destination</b>	<b>ZIP Code:</b> 02461	<b>City:</b> NEWTON HIGHLANDS	<b>State:</b> MA
<b>Origin</b>	<b>ZIP Code:</b>	<b>City:</b>	<b>State:</b>

**Firm Book ID: 5103 OSHG M098 9180 3493**

<b>Event</b>	<b>Date/Time</b>	<b>Location</b>	<b>Scanner ID</b>
DELIVERED	11/30/2009 07:32	NEWTON HIGHLANDS, MA 02461	POS0110161
<b>Input Method:</b> Firm Book			
<b>Finance Number:</b> 240011			
Firm Name: HARMON LAW			
Recipient: 'P HUNLEY'			
[REDACTED]			
[REDACTED]			
ARRIVAL AT UNIT	11/28/2009 11:20	NEWTON HIGHLANDS, MA 02461	030SHGM098
<b>Input Method:</b> Firm Book			

**Enter Request Type and Item Number:**

**Quick Search** ☒ **Extensive Search** ☐

[REDACTED]

[REDACTED]

[REDACTED]


*Version 1.0*

Inquire on multiple items.

Go to the Product Tracking System Home Page.

**Track/Confirm - Intranet Item Inquiry**  
**Item Number: 7160 3901 9848 2536 3360**

**This item was delivered on 11/30/2009 at 07:32**

<b>Signature:</b>	 Paul D Hinkley
<b>Address:</b>	389

<b>Enter Request Type and Item Number:</b>	
<b>Quick Search</b> <input checked="" type="radio"/>	<b>Extensive Search</b> <input type="radio"/>
<input type="text"/>	
<input type="text"/>	
<input type="text"/>	

Version 1.0

Inquire on multiple items.

Go to the Product Tracking System Home Page.

4/22/2017

Kaspersky Lab US Online Store - Order Completed



## Order Completed

Print

Order Number: 11047494306

Order Date: 4/22/2017

Order Total: 58.43 USD

The charge(s) will appear on your credit card as **DRM Kaspersky Lab**

**IMPORTANT: YOU MUST USE YOUR NEW ACTIVATION CODE BELOW TO ACTIVATE YOUR PROTECTION.**

Qty	Product Name
1	<b>Kaspersky Total Security (1-3 Devices, 1 Year Subscription Renewal)</b> Windows/Mac/Android Electronic Download  Activation Code: K9X24-7AHZA-5YX8F-P2P1S

**Activate/Install >**

**IMPORTANT: Your subscription period begins today. Please download, install, and activate your software as soon as possible.**

We strongly recommend that you save a copy of this email. Your Activation Code is required for using the program and gives you free access to our technical support, which is available throughout the validity period of the product license.

Order login details provided in this email let you manage the Auto Renewal Plan.

### How to activate and install the software

Step-by-step Guide

<http://usa.kaspersky.com/downloads/purchase/total-security-purchase>

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**+ Add**

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**+ Add**

stop showing

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1. Is there anything I should do before I download?
2. How do I download my purchase?
3. Is downloading the same as installing?
4. What if the download stops before it completes?
5. I finished downloading my purchase. Where was the file saved?
6. How can I re-download software that I have purchased?
7. I want to re-download my purchase, but the Download button is gone.
8. How do I get a physical version of my downloaded product?
9. How do I get my serial number or unlock code?
10. What do I do if my serial number or unlock code is not working?

**Order Instructions**

**Credit Card Billing Advisory.** Please be advised that when placing an order by credit card, we will first verify that the necessary funds are available through a pre-authorization hold. The pre-authorization may appear in your credit card transaction history, but will be removed within 1-2 business days of the full charge's completion. For purchases of physical products, you won't be billed until your product is shipped. This includes any preordered or backordered products. If your items are shipped separately, you will be billed for the cost of the item at the time of shipment.

**If your order contains downloadable software,** you have **30 days** to download your purchase. After you download, we suggest you save a copy of the downloaded file on an external drive, CD, DVD, or some other storage medium in the event you have computer problems or the downloaded file becomes damaged or corrupt.

**If your product requires a serial number or unlock code,** please make note of the number that appears in the order details above for future reference. An order confirmation email will be sent to you shortly that will also contain this information.

**For technical questions such as installation, uninstallation, or using your software,** please contact [Technical Support](#).

**If you have problems with your order or have any additional questions or comments,** please refer to the order confirmation email or contact [Customer Service](#) for assistance.

**Thank you again for your order!**

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**Print Invoice >**

## **GORDON: NOTICE OF SALE NOT SENT TO HER: FORECLOSURE VOID**

Gordon never received the required notice of the foreclosure sale. Instead of using her legal surname of Gordon, as it had appeared recently on all the Registry documents and all recent correspondence to Gordon, the purportedly foreclosing entity addressed it to Heather Y. Gayle a/k/a Heather Gordon. She no longer even had identification with her married surname of Gayle on it.

The U.S. postal service clerk, as per law, refused to release to Gordon what was not in her name. The purportedly foreclosing entity, in court, argued that she should have known that there was a package waiting for her and that it contained the notice of sale, although she had been denied the right to get it.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

HOUSING COURT DEPARTMENT  
CITY OF BOSTON DIVISION  
DOCKET NO. 10-SP-04149

HUNTINGTON NATIONAL BANK,  
TRUSTEE FOR FRANKLIN MORTGAGE  
ASSET TRUST 2009-A

Plaintiff,

DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

v.

STEVE GAYLE, HEATHER GORDON,  
Defendants.

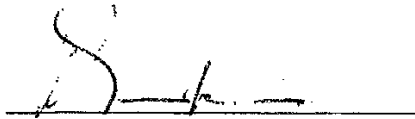
SUPPLEMENAL AFFIDAVIT OF DEFENDANT HEATHER GORDON IN  
OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

I, Heather Gordon, do hereby swear and aver:

1. My legal name is Y. Heather Gordon.
2. My married name was Heather Y. Gayle, but I have not been Heather Gayle since 2004, when I legally switched my name back to Y. Heather Gordon.
3. My driver's license correctly says that my name is Y. Heather Gordon.
4. When I signed my mortgage with Franklin Mortgage Asset Trust ("Franklin") in 2005, I signed it as Y. Heather Gordon.
5. Prior to the foreclosure, all correspondences that I had with Franklin were addressed to Heather Gordon.
6. Some time after March 2010, I received a slip from the Post Office, letting me know that I had certified mail to pick up. The slip was addressed to Heather Gayle.

7. The slip did not say who had sent me the mail, or what it was for.
8. I went to the Post Office with the slip to pick up the mail, but the postal worker would not give me the mail.
9. The postal worker asked me to provide identification, but they told me that I did not have proper identification, because my driver's license said that my name is Y. Heather Gordon and not Heather Gayle.
10. I told the postal worker that my name used to be Heather Gayle, and the postal worker asked if I had any identification that stated that my name was Heather Gayle.
11. I do not have any identification that states my name as Heather Gayle. My identification states that my name is Y. Heather Gordon.
12. I was told that the name on my identification needed to match the name on the package, and that the Post Office did not have any articles addressed to Y. Heather Gordon.
13. The postal worker did not tell me the contents or sender of the mail.
14. I never received any notice of the foreclosure auction.

Sworn to under the pains and penalties of perjury this 3<sup>rd</sup> day of February, 2011.

A handwritten signature in black ink, appearing to read 'Heather Gordon', is written over a horizontal line.

Heather Gordon

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

HOUSING COURT DEPARTMENT  
CITY OF BOSTON DIVISION  
DOCKET NO. 10-SP-04149

HUNTINGTON NATIONAL BANK,  
TRUSTEE FOR FRANKLIN MORTGAGE  
ASSET TRUST 2009-A

Plaintiff,

DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

v.

STEVE GAYLE, HEATHER GORDON,  
Defendants.

**DEFENDANT HEATHER GORDON'S AFFIDAVIT IN OPPOSITION TO  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

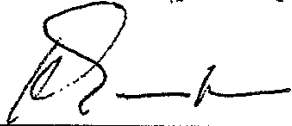
Heather Gordon, under oath, hereby deposes and says:

1. I am the former owner of my home at 3 Mendell Way, Jamaica Plain, MA (the "Property"). I live with my son, Steve Gayle, the other Defendant in this action. Steve has never been the owner of the home.
2. In or about November 7, 2005, I borrowed \$287,000 from Tribeca Lending Corp. ("Tribeca") to purchase the Property. In connection with that transaction, I executed a promissory note (the "Note") with Tribeca and also entered into a security agreement (the "Mortgage") with Tribeca. I was the lone mortgagor; my son, Steve Gayle, was never on the mortgage or note.
3. Sometime earlier this year, I arrived home to find that a foreclosure auction was taking place at my home. I learned later that it was Huntington National Bank ("Huntington"),

on behalf of an entity called Franklin Asset Trust 2009-A ("Franklin"), that conducted the foreclosure. Although I knew that I had fallen behind on my mortgage payments, I had not received any notice from Huntington or Franklin or any other entity that the foreclosure auction was scheduled to take place.

4. During the period of time Huntington has purported to own the Property, there have existed numerous conditions of disrepair that have impacted the habitability of the Property. Some conditions—including the pervasive mold, mice, and leaks in the rough-commenced only after Huntington purported to take title. Others, such as disrepair of the kitchen floor, existed at the time of the purported foreclosure and have since worsened.
5. The City of Boston Inspectional Services Department ("ISD") has cited Huntington for these violations but Huntington has not remedied the conditions. (ISD reports, attached hereto as Exhibit B.)
6. On or about November 2010, a contractor employed by Huntington visited the Property and saw the conditions of disrepair.
7. I am disabled, suffering from both rheumatoid arthritis resulting—which creates extreme joint pain—and carpal tunnel syndrome, for which I receive Social Security Disability Insurance benefits. Because of my disability, it would be a hardship for me to move from the Property.
8. Huntington has refused to accommodate my disability by modifying its policy of evicting former owners after foreclosure and marketing the Property with me in place.
9. I am ready and able to rent the Property. I am also working with Boston Community Capital to buy the Property.

Sworn to under the pains and penalties of perjury this 11 day of January, 2011

A handwritten signature in black ink, appearing to be 'H. Gordon', written over a horizontal line.

Heather Gordon

08/01/2007 22:00 14137366806

Bk: 42258 Pg: 244  
HENRY KIGALI ESQ

PAGE 81

12



2007 00088337  
Bk: 42258 Pg: 244 Doc: DED  
Page: 1 of 1 08/02/2007 11:40 AM

### QUITCLAIM DEED

Proper Address:  
3 Mendell Way  
Boston Jamaica Plain  
MA 02130

KNOW ALL MEN BY THESE PRESENTS: that HEATHER Y. GAYLE of 3 Mendell way, Boston (Jamaica Plain), Suffolk County, Massachusetts,

In consideration for LOVE AND AFFECTION and One Dollar—paid,

Grant to HEATHER Y. GAYLE and STEVE GAYLE of 3 Mendell way, Boston (Jamaica Plain), Suffolk County, Massachusetts.

With quitclaim covenants.

A certain parcel of land in Boston, with the buildings thereon, situated and numbered three (3) on a private way known as Mendell way (formerly known as three (3) Adams circle) Jamaica Plain, in the West Roxbury District, Boston, shown as Lot three on a plan by E. L. Moulton, Surveyor, dated July 5, 1922, and recorded with Suffolk Deeds, Book 4385, Page 555, and bounded and described as follows:

SOUTHEASTERLY: by Mendell way, by a curve line, nineteen and 87/100 (19.87) feet, and by a straight line, thirty-one and 55/100 (31.55) feet;  
SOUTHWESTERLY: by Lot 2 on said plan eighty-seven and 83/100 (87.83) feet;  
NORTHWESTERLY: by land of City of Boston, fifty (50) feet and  
NORTHEASTERLY: by land now or late of Adams, and by land now or late of Lina M. Krug, ninety-nine and 15/100 (99.15) feet;

Containing according to said plan, 4,728 square feet of land, more or less;

Together with a right of way over said private way now known as Mendell way (shown on said plan as Adams Circle) for all purposes, and the right to lay gas pipes in said Mendell way and to use electric poles owned now or formerly by said Adams.

Being the same premises conveyed to us by Ronald Hafer, et al, Trustees, by deed dated January 28, 1983, and recorded on January 31, 1983 at Suffolk Deeds in Book 10213, Page 275.

Executed as a sealed instrument this 2nd day August, 2007

IN WITNESS WHEREOF, The said Heather Y. Gayle, hereunto set her hands and seal on the date written above.

Heather Y. Gayle

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

August 2, 2007

Before me, the undersigned notary public, personally appeared the above named Heather Y. Gayle who proved to me through satisfactory evidence of identification, which was MASS DRIVER'S LIC, that she is the person whose name is signed on the preceding instrument and who acknowledged to me that she signed it voluntarily for its stated purpose and that it is her free act and deed.

Attested hereto

Francis M. Roache  
Francis M. Roache  
Register of Deeds  
Suffolk District

Before me

Gaude Russo  
Notary Public

My Commission expires: 7/3/09

AUG 01, 2007 09:10P

APPENDIX - 000030

14137366806



page 1



2010 00063556  
Bk: 46932 Pg: 327 Doc: FDD  
Page: 1 of 5 09/21/2010 10:04 AM

MASSACHUSETTS EXCISE TAX  
Suffolk County District ROD # 001  
Date: 09/21/2010 10:04 AM  
Ctry: 10483556 Doc: 00483556  
Fee: 11,075.16 Const: \$235,800.00

**CANCELLED**

### FORECLOSURE DEED

The Huntington National Bank, as Trustee for Franklin Mortgage Asset Trust 2009-A, having its usual place of business at c/o Franklin Credit Management Corporation, 101 Hudson Street, Jersey City, NJ 07302, holder of a mortgage from Heather Gordon to Tribeca Lending Corporation dated November 7, 2005, and recorded with the Suffolk Registry in Book 38468, Page 287, by the power conferred by said mortgage and every other power, for Two Hundred Thirty-Five Thousand Eight Hundred and 00/100 Dollars (\$235,800.00) paid, grants to Franklin Mortgage Asset Trust 2009-A, with a mailing address of: c/o Franklin Credit Management Corporation, 101 Hudson Street, Jersey City, NJ 07302, the real property with the buildings and improvements thereon, if any, situated in Jamaica Plain, Suffolk County, Massachusetts, which real property is fully described in Schedule "A" attached hereto and made part hereof by reference, being the premises conveyed by said Mortgage.

PROPERTY ADDRESS: 3 Mendell Way, Jamaica Plain, MA 02130

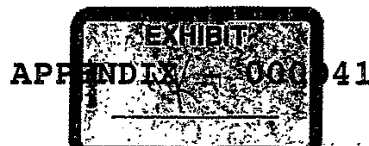
Executed under seal the 17 day of August, 2010 as the free act and deed of The Huntington National Bank, as Trustee for Franklin Mortgage Asset Trust 2009-A, by Franklin Credit Management Corporation, its Attorney in Fact, by Timmy Van, its EVP and Kimberly Shari its VP.

\* Steve Gayle and Heather Y. Gayle  
f/k/a Y.

\*\* By Franklin Credit, its Attorney  
in fact, by Power of Attorney  
recorded herewith.

\*\*\* Corporate Resolution recorded  
herewith.

by: [Signature]  
\*\*\*  
its: EVP  
by: [Signature]  
\*\*\*  
its: VP



3 Mendell Way, J.P.

State of New Jersey  
County of Hudson

ss.

On this 17 day of August, 2010, before me, the undersigned notary public, personally appeared Timothy Van and Kim Shaw, proved to me through satisfactory evidence of identification, which was work id, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

[Signature] (Affix Seal)  
Notary signature  
My Commission Expires \_\_\_\_\_  
Jelroy Ross  
Notary Public  
My Comm. Expires 12/11/2012  
State of New Jersey

## Schedule A

A certain parcel of land in said Boston, with the buildings thereon, situated and numbered three (3) on a private way known as Mendall Way (formerly known as three (3) Adams Circle), Jamaica Plain, in the West Roxbury District, Boston, shown as Lot three on a plan by E. L. Moulton, Surveyor, dated July 5, 1922, and recorded with Suffolk Deeds, Book 4385, Page 555, and bounded and described as follows:

Southeasterly by said Mendell Way, by a curved line, nineteen and  $87/100$  (193.87) feet, and by a straight line, thirty-one and  $55/100$  (31.55) feet;

Southwesterly by Lot 2 on said plan eighty-seven and  $83/100$  (87.83) feet;

Northwesterly by land of the City of Boston, fifty (50) feet; and

Northeasterly by land now or late of Adams, and by land now or late of Lina M. Krug, ninety-nine and  $15/100$  (99.15) feet;

Containing according to said plan, 4,728 square feet of land, more or less;

Together with a right of way over said private way now known as Mendell Way (shown on said plan as Adams Circle) for all purposes, and the right to lay gas pipes in said Mendell Way, and to use electric poles owned now or formerly by said Adams.

For Mortgagor's title, see Deed from Sylvester Burnett and June Burnett dated June 25, 1992 and recorded in the Suffolk Registry of Deeds in Book 18115, Page 346.

Subject to and with the benefit of easements, reservation, restrictions, and taking of record, if any, insofar as the same are now in force and applicable.

In the event of any typographical error set forth herein in the legal description of the premises, the description as set forth and contained in the mortgage shall control by reference.

This property has the address of 3 Mendell Way, Jamaica Plain, MA, 02130.

AFFIDAVIT

I, Jimmy Van, being the duly authorized EVP for The Huntington National Bank, as Trustee for Franklin Mortgage Asset Trust 2009-A, named in the foregoing deed, make oath and say that the principal, interest, and tax obligations mentioned in the mortgage above referred to were not paid or tendered or performed when due or prior to the sale; and that I published on May 25, 2010, June 1, 2010, and June 8, 2010, in the Boston Globe, published in Massachusetts and by its cover page purporting to be published in Jamaica Plain and having a circulation therein, notice of which the following is a true copy;

SEE EXHIBIT "A" ATTACHED HERETO AND MADE PART HEREOF

I have also complied with Chapter 244, § 14 of the General Laws of Massachusetts as amended by mailing the required notices registered mail, return receipt requested.

Pursuant to said notice, on June 23, 2010, at 12:00 PM, at which time and place upon the mortgaged premises, The Huntington National Bank, as Trustee for Franklin Mortgage Asset Trust 2009-A sold the mortgaged premises at public auction by Sandra Monroe of Monroe Auction Group, a licensed auctioneer, to Franklin Mortgage Asset Trust 2009-A, for Two Hundred Thirty-Five Thousand Eight Hundred and 00/100 Dollars (\$235,800.00), being the highest bid made therefore at said auction.

The Huntington National Bank, as Trustee for Franklin Mortgage Asset Trust 2009-A, by Franklin Credit Management Corporation, its Attorney in Fact, \*

Witness: Charles Chylas

by: [Signature]  
its: Jimmy Van  
**Executive Vice President  
Managing Director  
of Servicing and Recovery**

State of New Jersey  
County of Hudson

ss. \* By Franklin Credit, its Attorney in Fact, by Power of Attorney recorded herewith.

Signed and sworn to before me this 15 day of September 2010.

Notary Public [Signature]

My Commission expires: 1/11/2012

**Delroy Ross  
Notary Public  
Expires 1/11/2012  
New Jersey**

\* Corporate Resolution recorded herewith.

**EXHIBIT "A"**

**NOTICE OF MORTGAGEE'S SALE OF REAL ESTATE**

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Steve Gayle and Heather Y. Gayle t/k/a Y. Heather Gordon to Tribeca Lending Corporation dated November 7, 2005, recorded with the Suffolk County Registry of Deeds in Book 3845, Page 287 of which mortgage the undersigned is the present holder for breach of conditions of said mortgage and for the purpose of foreclosing the same will be sold at PUBLIC AUCTION at 12:00 PM on June 23, 2010, on the mortgaged premises. The entire mortgaged premises, all and singular, the premises as described in said mortgage:

A certain parcel of land in said Boston, with the buildings thereon situated and numbered three (3) on a private way known as Mendell Way (formerly known as three (3) Adams Circle), Jamaica Plain, in the West Roxbury District, Boston, shown as Lot three on a plan by E. L. Moulton, Surveyor, dated July 5, 1922, and recorded with Suffolk Deeds, Book 4385, Page 535, and bounded and described as follows: Southeasterly by said Mendell Way, by a curved line, nineteen and 87/100 (19.87) feet, and by a straight line, thirty-one and 55/100 (31.55) feet; Northwesterly by Lot on said plan eighty-seven and 83/100 (87.83) feet; Northwesterly by land of the City of Boston, fifty (50) feet; and Northeasterly by land now or late of Adams, and by land now or late of Lina M. Krug, ninety-nine and 15/100 (99.15) feet. Containing according to said plan, 4,728 square feet of land, more or less, together with a right of way over said private way now known as Mendell Way (shown on said plan as Adams Circle) for all purposes, and the right to lay gas pipes in said Mendell Way, and to use electric poles owned now or formerly by said Adams. For Mortgagee's title, see Deed from Sylvester Burnett and June Burnett dated June 25, 1992 and recorded in the Suffolk Registry of Deeds in Book 18115, Page 346.

Subject to and with the benefit of easements, reservations, restrictions, and taking of record, if any, insofar as the same are now in force and applicable.

In the event of any typographical error set forth herein in the legal description of the premises, the description as set forth and contained in the mortgage shall control by reference.

This property has the address of 3 Mendell Way, Jamaica Plain, MA, 02130.

Together with all the improvements now or hereafter erected on the property and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this sale.

**Terms of Sale:** Said premises will be sold subject to any and all unpaid taxes and assessments, tax sales, tax titles and other municipal liens and water or sewer liens and State or County transfer fees, if any there are, and TEN THOUSAND DOLLARS (\$10,000.00) in cashier's or certified check will be required to be paid by the purchaser at the time and place of the sale as a deposit and the balance in cashier's or certified check will be due in thirty (30) days, at the offices of Doonan, Graves & Longoria, LLC, 100 Cummings Center, Suite 225D, Beverly, MA 01915, time being of the essence.

The Mortgagee reserves the right to postpone the sale to a later date by public proclamation at the time and date appointed for the sale and to further postpone at any adjourned sale-date by public proclamation at the time and date appointed for the adjourned sale date.

The premises is to be sold subject to and with the benefit of all easements, restrictions, leases, tenancies, and rights of possession, building and zoning laws, encumbrances, condominium liens, if any and all other claim in the nature of liens, if any there be.

In the event that the successful bidder at the foreclosure sale shall default in purchasing the within described property according to the terms of this Notice of Sale and/or the terms of the Memorandum of Sale executed at the time of foreclosure, the Mortgagee reserves the right to sell the property by foreclosure deed to the second highest bidder, providing that said second highest bidder shall deposit with the Mortgagee's attorney, DOONAN, GRAVES, & LONGORIA LLC, 100 Cummings Center, Suite 225D, Beverly, Massachusetts, 01915, the amount of the required deposit as set forth herein within three (3) business days after written notice of the default of the previous highest bidder and title shall be conveyed to the said second highest bidder within thirty (30) days of said written notice. If the second highest bidder declines to purchase the within described property, the Mortgagee reserves the right to purchase the within described property at the amount bid by the second highest bidder.

The foreclosure deed and the consideration paid by the successful bidder shall be held in escrow by DOONAN, GRAVES, & LONGORIA LLC, hereinafter called the "Escrow Agent" until the deed shall be released from escrow to the successful bidder at the same time as the consideration is released to the Mortgagee, thirty (30) days after the date of sale, whereupon all obligations of the Escrow Agent shall be deemed to have been properly fulfilled and the Escrow Agent shall be discharged.

Other terms to be announced at the sale.

Dated: May 25, 2010. The Huntington National Bank, as Trustee for Franklin Mortgage Asset Trust 2009-A, By: Reneau Longoria, Esq., DOONAN, GRAVES, & LONGORIA LLC, 100 Cummings Center, Suite 225D, Beverly, MA 01915, 978-921-2670, www.dgandl.com (8310.06 /GayleX05-25-10, 06-01-10, 06-08-10)(251695)

May 25, Jun 1, 8

When Recorded Return To:  
**Doonan, Graves, & Longoria, LLC**  
 100 Cummings Center, Suite 225D  
 Beverly, MA 01915

**APPENDIX - 000045**

## **10. Foreclosure Deed False**

- a. Ferreira: "Foreclosing" entity swore in foreclosure recordations that Fannie Mae bid at auction & purchased. Fannie recordations swear never had interest.

## **FERREIRA: FORECLOSURE 'DEED' REVERSED BY LATE FANNIE FILING: FORECLOSURE VOID**

The Ferreira deeds speak for themselves.

The first one, a foreclosure deed, says that the Massachusetts Housing Finance Authority (MHFA) foreclosed and sold Ferreira's property to Fannie Mae. The foreclosure deed was executed on February 12, 2015. It attaches the required 'affidavit' of sale and copies of newspaper notices of the foreclosure auction.

Then, there is a recorded quit claim deed, executed on August 26, 2015, from Fannie Mae back to MHFA. A quit claim deed is a legal instrument for transferring, to the grantee, whatever interest the grantor has in certain real property. This quit claim deed includes language on the second page right before the signature line that says, "This property was inadvertently conveyed to Fannie Mae and Fannie Mae did not accept the deed."

This means, of course, that the foreclosure deed itself is also completely invalid. For a conveyance of an interest in real property, there must be both a grantor and a named grantee. The 'affidavit' attached to it is not just an—oops, we made a mistake--kind of affidavit. It swears that, at the auction itself, MHFA sold Ferreira's home to Fannie Mae as the highest bidder at the auction. The affiant specifically swears that Fannie Mae had a representative under Fannie Mae's own name bidding at the auction.

The documents that Massachusetts law now requires, under the SJC's *Eaton* case, to be recorded in the Registry of Deeds, include an affidavit swearing that the foreclosing entity either holds the Note or is the agent of the Noteholder.

Along with this clearly void 'foreclosure' deed was such an 'Eaton' affidavit, swearing that MHFA did not hold the Note but that it was the agent of the Noteholder.

Later on, after Fannie Mae had made it clear that it never had an interest in Ferreira's home, and that all of those documents are an outright lie, MHFA then recorded a new 'Eaton' affidavit at the Registry. It is signed by the same affiant and has literally the exact same terms as the first 'Eaton' affidavit, without any correction of the previous one, except that the affiant now swears that MHFA *was* the Noteholder!

Surely, MHFA knows whether the physical human being who was supposedly bidding at the auction was a representative of MHFA itself, or represented Fannie Mae. This deed has never been cancelled and ownership returned to the homeowner. Clearly, the supposed foreclosure deed is completely invalid and no foreclosure of that property has ever occurred.



# FORECLOSURE DEED

Massachusetts Housing Finance Agency, having its usual place of business at One Beacon Street, Boston, MA 02108, holder of a mortgage from Patricia Bonilla n/k/a Patricia DeSouza Ferreira to Mortgage Electronic Registration Systems, Inc., as nominee for Metrocities Mortgage, LLC dated June 27, 2008, and recorded with the Worcester County (Worcester District) Registry in Book 43053, Page 265. Said mortgage was then assigned to Massachusetts Housing Finance Agency by virtue of an assignment dated February 15, 2013, and recorded in Book 50451, at Page 286, by the power conferred by said mortgage and every other power, for Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) paid, grants to Federal National Mortgage Association, with a mailing address of: 14221 Dallas Parkway, Suite 1000, Dallas, TX 75254, the real property with the buildings and improvements thereon, if any, situated in Shrewsbury, Worcester County (Worcester District) County, Massachusetts, which real property is fully described in Schedule "A" attached hereto and made part hereof by reference, being the premises conveyed by said Mortgage.

PROPERTY ADDRESS: 44 Shrewsbury Green Drive Unit 44B, The Green at Shrewsbury Condominium, Shrewsbury, MA 01545

Executed under seal the 12<sup>th</sup> day of February 2015.

Massachusetts Housing Finance Agency

by:   
Reneau J. Longoria, its Attorney

53403-390

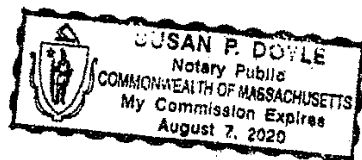
See Limited Power of Attorney recorded herewith.

State of Massachusetts  
County of Worcester

ss.

On this 12<sup>th</sup> day of February 2015, before me, the undersigned notary public, personally appeared Reneau J. Longoria approved to me through satisfactory evidence of identification, which was Personnel Knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

  
Notary signature  
My Commission Expires \_\_\_\_\_



SCHEDULE "A"

The "Unit" known as Unit 44B, in a condominium known as The Green at Shrewsbury Condominium and established pursuant to Massachusetts General Laws, Chapter 183A, as amended, by Master Deed dated December 15, 1986 and recorded with Worcester County Registry of Deeds in Book 10416, Page 194.

Together with an undivided percent interest in the common areas and facilities of said Condominium and together with the rights, if any, to exclusive use of the common areas and facilities of said Condominium as more fully set forth in the aforesaid Master Deed and the Unit Deed.

Together with the benefit of, and subject to, the easements, restrictions, conditions, rights and obligations set forth or referred to in said Master Deed, Unit Deed and provisions of the Trust, its by —laws and Rules and Regulations, recorded with said Registry of Deeds as the same may from time to time be amended by instruments of record.

For title, see deed recorded herewith, Book 43053-261

Subject to and with the benefit of easements, reservation, restrictions, and taking of record, if any, insofar as the same are now in force and applicable. In the event of any typographical error set forth herein in the legal description of the premises, the description as set forth and contained in the mortgage shall control by reference.

This property has the address of 44 Shrewsbury Green Drive Unit 44B, The Green at Shrewsbury Condominium, Shrewsbury, MA 01545

# AFFIDAVIT

I, Reneau J. Longoria, Attorney of Doonan, Graves & Longoria, as Attorneys for Massachusetts Housing Finance Agency named in the foregoing deed, make oath and say that, the principal, interest, and tax obligations mentioned in the mortgage as more particularly described in the Foreclosure Deed recorded herewith were not paid or tendered or performed when due or prior to the sale. In compliance with G.L. c. 244 § 14; on behalf of Massachusetts Housing Finance Agency, our office caused a notice of sale to be published in the Telegram and Gazette, a newspaper published, or by its title page purporting to be published in Worcester and having general circulation in Shrewsbury, Worcester County (Worcester District) County, Massachusetts for three (3) consecutive weeks: December 21, 2014, December 28, 2014 and January 4, 2015, notice of which the following is a true copy:

## SEE EXHIBIT "A" ATTACHED HERETO AND MADE PART HEREOF

Our office has also complied with Chapter 244, § 14 of the General Laws of Massachusetts and all amendments thereto, and 26 U.S.C. § 7425(c) of the Internal Revenue Code (if applicable) by mailing the required notices via certified mail to the owner of the equity of redemption appearing on our records as of thirty (30) days prior to the sale, to the last known address of said owner of the equity of redemption, and all other persons of record holding an interest in the property junior to the mortgage being foreclosed, return receipt requested, as well as regular mail, thereby complying in all respects with the power of sale.

Pursuant to said notice, on January 20, 2015, at 12:00 PM, at which time and place upon the mortgaged premises, Massachusetts Housing Finance Agency, sold the mortgaged premises at public auction by Sandra Monroe of Monroe Auction Group, a licensed auctioneer, to Federal National Mortgage Association, for Seventy-Five Thousand and 00/100 (\$75,000.00) Dollars, being the highest bid made therefore at said auction.

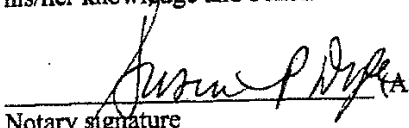
by: 

Reneau J. Longoria, Attorney

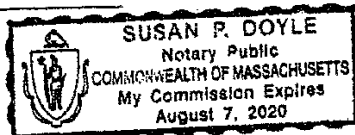
## COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 12th day of February, 2015, before me, the undersigned notary public, personally appeared Reneau J. Longoria who proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, who swore or affirmed to me that the contents of the document are truthful and accurate to the best his/her knowledge and belief.

  
 Notary signature

My Commission Expires \_\_\_\_\_



## EXHIBIT "A"

NOTICE OF MORTGAGEE'S SALE OF REAL ESTATE By virtue and in execution of the Power of Sale contained in a certain mortgage given by Patricia Bonilla to Mortgage Electronic Registration Systems, Inc., as nominee for Metrocities Mortgage, LLC dated June 27, 2008, recorded with the Worcester County (Worcester District) in Book 43053, Page 265; said mortgage was then assigned to Massachusetts Housing Finance Agency by virtue of an assignment dated February 15, 2013, and recorded in Book 50451, at Page 286, of which mortgage the undersigned is the present holder for breach of conditions of said mortgage and for the purpose of foreclosing the same will be sold at PUBLIC AUCTION at 12:00 PM on January 20, 2015, on the mortgaged premises. The entire mortgaged premises, all and singular, the premises as described in said mortgage: The "Unit" known as Unit 44B, in a condominium known as The Green at Shrewsbury Condominium and established pursuant to Massachusetts General Laws, Chapter 183A, as amended, by Master Deed dated December 15, 1986 and recorded with Worcester County Registry of Deeds in Book 10416, Page 194. Together with an undivided percent interest in the common areas and facilities of said Condominium and together with the rights, if any, to exclusive use of the common areas and facilities of said Condominium as more fully set forth in the aforesaid Master Deed and the Unit Deed. Together with the benefit of, and subject to, the easements, restrictions, conditions, rights and obligations set forth or referred to in said Master Deed, Unit Deed and provisions of the Trust, its by-laws and Rules and Regulations, recorded with said Registry of Deeds as the same may from time to time be amended by instruments of record. For title, see deed recorded herewith, Book 43053-261 Subject to and with the benefit of easements, reservation, restrictions, and taking of record, if any, insofar as the same are now in force and applicable. In the event of any typographical error set forth herein in the legal description of the premises, the description as set forth and contained in the mortgage shall control by reference. This property has the address of 44 Shrewsbury Green Drive Unit 44B, The Green at Shrewsbury Condominium, Shrewsbury, MA 01545 Together with all the improvements now or hereafter erected on the property and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this sale. Terms of Sale: Said premises will be sold subject to any and all unpaid taxes and assessments, tax sales, tax titles and other municipal liens and water or sewer liens and State or County transfer fees, if any there are, and TEN THOUSAND DOLLARS (\$10,000.00) in cashier's or certified check will be required to be paid by the purchaser at the time and place of the sale as a deposit and the balance in cashier's or certified check will be due in thirty (30) days, at the offices of Doonan, Graves & Longoria, LLC, 100 Cummings Center, Suite 225D, Beverly, MA 01915, time being of the essence. The Mortgagee reserves the right to postpone the sale to a later date by public proclamation at the time and date appointed for the sale and to further postpone at any adjourned sale date by public proclamation at the time and date appointed for the adjourned sale date. The premises is to be sold subject to and with the benefit of all easements, restrictions, leases, tenancies, and rights of possession, building and zoning laws, encumbrances, condominium liens, if any and all other claim in the nature of liens, if any there be. In the event that the successful bidder at the foreclosure sale shall default in purchasing the within described property according to the terms of this Notice of Sale and/or the terms of the Memorandum of Sale executed at the time of foreclosure, the Mortgagee reserves the right to sell the property by foreclosure deed to the second highest bidder, providing that said second highest bidder shall deposit with the Mortgagee's attorneys, DOONAN, GRAVES, & LONGORIA LLC, 100 Cummings Center, Suite 225D, Beverly, MA 01915, the amount of the required deposit as set forth herein within three (3) business days after written notice of the default of the previous highest bidder and title shall be conveyed to the said second highest bidder within thirty (30) days of said written notice. If the second highest bidder declines to purchase the within described property, the Mortgagee reserves the right to purchase the within described property at the amount bid by the second highest bidder. The foreclosure deed and the consideration paid by the successful bidder shall be held in escrow by DOONAN, GRAVES, & LONGORIA LLC, (hereinafter called the "Escrow Agent") until the deed shall be released from escrow to the successful bidder at the same time as the consideration is released to the Mortgagee, thirty (30) days after the date of sale, whereupon all obligations of the Escrow Agent shall be deemed to have been properly fulfilled and the Escrow Agent shall be discharged. Other terms to be announced at the sale. Dated: December 2, 2014 Massachusetts Housing Finance Agency By: Reneau J Longoria, Esq., DOONAN, GRAVES, & LONGORIA LLC 100 Cummings Center, Suite 225D Beverly, MA 01915 978-921-2670 10101.62 ( BONILLA) FEI # 1078.00246 12/21/2014, 12/28/2014, 01/04/2015 December 21, 28, 2014, January 4, 2015

ATTEST: WORC. Anthony J. Vigliotti, Register



2015 00104271

Bk: 54391 Pg: 36

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## QUITCLAIM DEED

Federal National Mortgage Association, a/k/a Fannie Mae, a corporation organized under the Act of Congress and existing pursuant to the Federal National Mortgage Association Charter Act, having its principal office in Washington, District of Columbia, and an office for the conduct of business at P.O. Box 640043, Dallas, Texas 75265-0043, (the "Grantor")

For consideration of One (\$1.00) Dollar paid,

hereby quitclaims to Massachusetts Housing Finance Agency, a body politic duly established under the laws of the Commonwealth of Massachusetts and having a usual place of business at One Beacon Street, Boston, MA 02108, (the "Grantee"), with **QUITCLAIM COVENANTS**,

the land located at 44 Shrewsbury Green Drive, Unit 44B, Shrewsbury, MA 01545, as more particularly described as follows:

The "Unit" known as Unit 44B, in a condominium known as The Green at Shrewsbury Condominium and established pursuant to Massachusetts General Laws, Chapter 183A, as amended, by Master Deed dated December 15, 1986 and recorded with Worcester County Registry of Deeds In Book 10416, Page 194.

Together with an undivided percent interest in the common areas and facilities of said Condominium and together with the rights, if any, to exclusive use of the common areas and facilities of said Condominium as more fully set forth in the aforesaid Master Deed and the Unit Deed.

Together with the benefit of, and subject to, the easements, restrictions, conditions, rights and obligations set forth or referred to in said Master Deed, Unit Deed and provisions of the Trust, its by-laws and Rules and Regulations, recorded with said Registry of Deeds as the same may from time to time be amended by instruments of record.

This property has the address of **44 Shrewsbury Green Drive Unit 44B, The Green at Shrewsbury Condominium, Shrewsbury, MA 01545**

Being the same premises conveyed the Grantor by Foreclosure Deed dated February 12, 2015 and recorded with the Worcester (Worcester District) Registry of Deeds at Book 53403, Page 392.

Under and subject to any existing covenants, easements, encroachments, conditions, restrictions, and agreements affecting this property.

44 Shrewsbury Green, Unit 44B Shrewsbury

AB

This deed is given in the usual course of the Grantor's business and is not a conveyance of all of substantially all of the Grantor's assets in Massachusetts.

The Grantor is exempt from paying the Massachusetts state excise stamp tax by virtue of 12 United States Code Sections 1452, 1723a or 1825.

Together with all and singular the improvements, ways, streets, alleys, passages, water, watercourses, right, liberties, privileges, hereditaments, and appurtenances whatsoever hereto belonging or in anywise appertaining and the reversions and remainders, rents, issues and profits thereof, and all the estate, right, title and interest, property, claim and demand whatsoever of the said Grantor in law, equity, or otherwise howsoever, of and to the same and every part thereof.

This property was inadvertently conveyed to the Federal National Mortgage Association and the Federal National Mortgage Association did not accept the deed.

WITNESS the execution and corporate seal of said corporation this 26<sup>th</sup> day of August, 2015.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION, a/k/a FANNIE MAE

BY: [Signature]  
ITS: ATVP  
John Curcio

State of: Texas  
County of: Dallas

On the 26<sup>th</sup> day of August, 2015, before me, the undersigned notary public, personally appeared John Curcio, proved to me through satisfactory evidence of identification, which was known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she/he signed it voluntarily as his/her free act and deed and the free act and deed of Federal National Mortgage Association a/k/a Fannie Mae, before me,



Michael Gary Dodson  
Notary Public  
My Commission Expires:

## Worcester District Registry of Deeds - 20/20 Perfect Vision I2 Document Detail Report

Current datetime: 12/26/2016 10:24:58 AM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
15921	AFFIDAVIT		53403/396	02/26/2015	
<b>Property-Street Address and/or Description</b>					
44 SHREWSBURY GREEN DR UNIT 44B					
<b>Grantors</b>					
BONILLA PATRICIA, FERREIRA PATRICIA DESOUZA, MASSACHUSETTS HOUSING FINANCE AGENCY, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC, METROCITIES MORTGAGE LLC					
<b>Grantees</b>					
<b>References-Book/Pg Description Recorded Year</b>					
43053/265 MTG 2008, 50451/286 ASM 2013					
<b>Registered Land Certificate(s)-Cert# Book/Pg</b>					

POST SALE AFFIDAVIT REGARDING NOTE  
"Eaton Affidavit"



2015 00015321  
Bk: 53403 Pg: 396  
Page: 1 of 1 02/26/2015 01:27 PM WD

Current Record Owner: Patricia Bonilla n/k/a Patricia Desouza Ferreira

Foreclosing Entity: Massachusetts Housing Finance Agency

Property Address: 44 Shrewsbury Green Drive Unit 44B, The Green at Shrewsbury Condominium,  
Shrewsbury, MA 01545

Mortgage: The Mortgage to be foreclosed was given by Patricia Bonilla n/k/a Patricia Desouza Ferreira to Mortgage Electronic Registration Systems, Inc., as nominee for Metrocities Mortgage, LLC, dated June 27, 2008, and recorded in the Worcester County (Worcester District) County Registry of Deeds in Book 43053, at Page 265.

Said mortgage was then assigned to Massachusetts Housing Finance Agency by virtue of an assignment dated February 15, 2013, and recorded in Book 50451, at Page 286.

1. I am employed as a Manager of Home Ownership Administration and Asset Disposition of Massachusetts Housing Finance Agency, the servicer for the mortgage loan that is the subject of this action. I have personal knowledge of the facts contained in this affidavit as follows: I am familiar with the systems of record that Massachusetts Housing Finance Agency uses to record and create information related to the residential mortgage loans that it services, including the processes by which Massachusetts Housing Finance Agency obtains the loan information in those systems. While many of those processes are automated, the information manually entered by Massachusetts Housing Finance Agency employees relating to loans on those systems is based upon personal knowledge of the information and is entered into the system at or near the time the knowledge was acquired. These computerized records are created and maintained in the regular course of its business as a loan servicer and Massachusetts Housing Finance Agency relies on the records in the ordinary course to conduct its business as a loan servicer.
2. Based upon my review of the business records of Massachusetts Housing Finance Agency, I certify that as of the dates when Notices of Sale relating to the Mortgage at issue were mailed and published pursuant to M.G.L. Chapter 244, Section 14 up to and including the Foreclosure Sale Date, the Foreclosing Mortgagee was:  
[Check One]  
☐ the holder of the promissory note secured by the above Mortgage.  
☒ the authorized agent of the holder/owner of said promissory note, secured by the Mortgage.

Signed under the pains and penalties of perjury this 12<sup>th</sup> day of February, 2015.

Name: Gary A. Brown  
Title: Manager of Home Ownership Administration  
and Asset Disposition

State of Massachusetts  
County of Suffolk

Before me, a notary public, on this 12<sup>th</sup> day of February, 2015, personally appeared Gary A. Brown, known to me to be the person whose name is subscribed to the foregoing document and being by me first duly sworn, declared that the statements therein contained are true and accurate.



JONATHAN ORONZO  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
November 2, 2015

Notary Public JONATHAN ORONZO  
My Commission Expires: 11/2/15

ATTEST: WORC. Anthony J. Vigliotti, Register



2015 00104270

Bk: 54391 Pg: 34

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AFFIDAVIT UNDER M.G.L. c. 183, s. 5B

Property Address: 44 Shrewsbury  
Green Drive, Unit 44, Shrewsbury, MA  
01545

I, Gary A. Brown, Manager of Home Ownership Administration and Asset Disposition for Massachusetts Housing Finance Agency, having personal knowledge of the facts herein stated, under oath depose and say as follows:

1. On April 1, 2014 I executed an Affidavit Regarding Note Secured by a Mortgage to Be Foreclosed (Pre-Foreclosure Affidavit) and checked off a box which indicated that the Foreclosing Entity was the authorized agent of the holder/owner of a promissory note, for purposes, *inter alia*, of foreclosing said mortgage on behalf of said note holder.
2. On February 12, 2015 I executed a Post Sale Affidavit Regarding Note "Eaton Affidavit" and checked off the box which indicated that the Foreclosing Mortgagee was the authorized agent of the holder/owner of said promissory note, secured by the Mortgage.
3. Massachusetts Housing Finance Agency is the holder of the promissory note secured by the mortgage on this loan prior to the first publication of the Notice of Sale and at the time the sale was held.

Signed under the penalties of perjury this 22nd day of September, 2015.

Gary A. Brown  
Manager of Home Ownership Administration  
And Asset Disposition

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 22nd day of September, 2015, before me, the undersigned notary public, personally appeared Gary A. Brown, who proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document(s) are truthful and accurate to the best of her knowledge and belief.

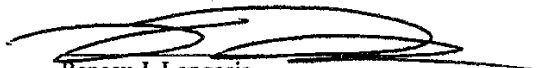


JONATHAN ORONZO  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
November 2, 2015

Jonathan Oronzo, Notary Public  
My Commission Expires: 11/2/2015

CERTIFICATE

I, Reneau J. Longoria, hereby certify that I am an attorney at law with offices at 100 Cummings Center, Suite 225D, Beverly, Massachusetts, and that the facts stated in the foregoing affidavit are relevant to the title to the premises therein described and will be of benefit and assistance in clarifying the chain of title thereto.



Reneau J. Longoria

ATTEST: WORC. Anthony J. Vigliotti, Register

## **11. Standard Operating Procedure violations:**

### **Fannie Mae/Freddie Mac**

Fannie and Freddie claim to have owned about 60% of mortgage loans (Note and mortgage) at height of foreclosure crisis – presumably they affected about 60% of foreclosures. Under their rules they can “buy” at a foreclosure auction only if they already own the mortgage; however, they almost never foreclose in their own names. However, mortgage laws, like all U.S. creditor laws, require that in debt collection actions the debtor must know who really owns the debt. So most Fannie and Freddie “foreclosures” are illegal.

- a. Alvarez: Court Sworn evidence Freddie Mac owned whole loan; foreclosure void as not in their name.
- b. Kunar: Note and other evidence Freddie Mac owned whole loan; foreclosure void as not in their name.
- c. Palmaccio: Repeated evidence Fannie Mae owned whole loan; Servicer sent simultaneous Modification documents one from servicer as mortgagee, one from Fannie Mae as mortgagee.
- d. Wooten: Repeated evidence Fannie Mae owned whole loan.

## **FREDDIE MAC/FANNIE MAE STANDARD OPERATING PROCEDURES = ILLEGAL FORECLOSURE\***

Both Freddie Mac and Fannie Mae purchase only “whole loans,” that is, mortgage and Note together, with no encumbrances on either. Fannie and Freddie both require in their seller/servicer contracts that the servicer leaves its name in the Registry of Deeds as the mortgagee, even though the seller no longer owns the mortgage or any interest in the property, and that the servicer service the loan under the pretense that it is the mortgagee, when in fact the mortgagee is Freddie Mac or Fannie Mae. This obviously corrupts the reliability of the public land records nationwide. These are supposed to show, at any given time and accurately, who owns what interests in what real property.

Under Massachusetts statute, a mortgagee may buy back at auction. Under Freddie Mac and Fannie Mae’s contractual rules they “purchase” at auction or, afterwards, the winning bid only if the property had a mortgage that they owned all along. In more recent court cases, their lawyers stated that Fannie and Freddie “credit bid.” In legal parlance, this means that, instead of paying for the property they supposedly bought, they bid the amount of the debt that they are already owed. Massachusetts has no statutory authority for credit bidding in a foreclosure.

This is a direct refutation of the ‘affidavits’ of sale attached to foreclosure deeds. Those affidavits claim that the servicer (parading as the mortgagee) was the one that sold the property at foreclosure and that either the mortgagee bid and then transferred the bid to Freddie Mac or Fannie Mae; or, in occasional cases, that Freddie Mac or Fannie Mae was actually the bidder.

However, in both of these configurations Freddie Mac and Fannie Mae could not have credit bid if they – rather than the servicer -- did not already have, in fact, the whole loan; therefore, their statements in court actually comport with Freddie Mac and Fannie Mae procedures, in this case, their illegal but standard operating procedures.

Such ‘affidavits’ of sale are an outright lie. The foreclosure deeds are a lie as well, because they swear that it was the servicer that was selling, which is not true and not legally compliant.

**\*Please note, this report is not comprehensive and not meant to be – this is just one way in which these foreclosures are all void by operation of law *ab initio*.**

## **ALVAREZ: FREDDIE MAC WAS HIDDEN MORTGAGEE, SO 'FORECLOSURE' WAS VOID**

The Alvarez documents show that the foreclosure was not conducted by the mortgagee, who was Freddie Mac, the real party in interest. Instead, U.S. Bank conducted the foreclosure supposedly as the mortgagee. U.S. Bank is actually just the servicer, not the mortgagee, and was acting on Freddie Mac's behalf.

Attached are Freddie Mac's sworn legal documents from the proactive suit that Alvarez brought after the supposed foreclosure, at the same time Freddie began to attempt to evict him through Housing Court. At the time, no one believed that the Housing Court had the authority even to review foreclosure-related issues. The SJC clarified shortly after his case began that, Housing Court had the authority to review – although not to decide – whether a foreclosing entity could legally claim to own the home.

What these selected documents clearly established, of course, in the Alvarez case and in all such cases, is that Freddie Mac owned the loan and was the true mortgagee. The foreclosure by the servicer as if it, instead, was the mortgagee, was illegal or "void" by operation of law *ab initio* because of real property law as well as ancient debtor-creditor law requiring debt collection in the name of the actual creditor.



Bk: 42155 Pg: 256

Page: 1 of 15 12/05/2007 03:38 PM WD

After Recording Return To:

METROCITIES MORTGAGE, LLC  
15301 VENTURA BLVD, SUITE D300  
SHERMAN OAKS, CALIFORNIA 91403  
Loan Number: 21091394

Property Address: 384 LOVELL STREET  
WORCESTER, MASSACHUSETTS 01602

[Space Above This Line For Recording Data]

## MORTGAGE

MIN: 100034200057844791

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated NOVEMBER 28, 2007, together with all Riders to this document.
- (B) "Borrower" is JUAN D. ALVAREZ

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is METROCITIES MORTGAGE, LLC

Lender is a LIMITED LIABILITY COMPANY  
and existing under the laws of DELAWARE

organized

Lender's address is 15301 VENTURA BLVD, SUITE D300, SHERMAN OAKS,  
CALIFORNIA 91403

(E) "Note" means the promissory note signed by Borrower and dated NOVEMBER 28, 2007. The Note states that Borrower owes Lender TWO HUNDRED FORTY-SEVEN THOUSAND FIVE HUNDRED AND 00/100 Dollars (U.S. \$ 247,500.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than DECEMBER 1, 2037.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

384 LOVELL STREET, WORCESTER, MA.

15

Bk: 46118 Pg: 278

Return to:  
Orlans Moran PLLC  
P. O. Box 5041  
Troy, MI 48007-5041



2010 00082381  
Bk: 46118 Pg: 278  
Page: 1 of 1 08/03/2010 02:30 PM WD

ASSIGNMENT

Mortgage Electronic Registration Systems, Inc.

holder of a mortgage from

Juan D. Alvarez

to Mortgage Electronic Registration Systems, Inc.

dated November 28, 2007

recorded with Worcester County (Worcester District) Registry of Deeds in Book 42155, Page 256 assigns said mortgage secured thereby to US Bank, National Association, 4801 Frederica Street, Owensboro, KY 42301

IN WITNESS WHEREOF the said Mortgage Electronic Registration Systems, Inc. has caused these presents to be signed in its name and behalf by Sarah Hargrove, its Assistant Secretary and Vice President Pursuant to Corporate Resolution and its corporate seal to be hereunto affixed this 29th day of July, 2010.

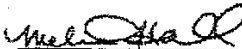
Mortgage Electronic Registration Systems, Inc.

By:   
Sarah Hargrove, Assistant Secretary and Vice  
President, Pursuant to Corporate Resolution

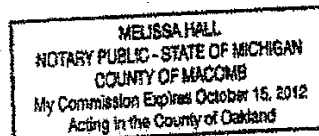
STATE OF MICHIGAN

COUNTY OF OAKLAND

On this 29th day of July, 2010, before me the undersigned notary public, personally appeared Sarah Hargrove, Assistant Secretary and Vice President Pursuant to Corporate Resolution of Mortgage Electronic Registration Systems, Inc. who I have personal knowledge of identity, to be the person whose name is signed on the proceeding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

  
Melissa Hall, Notary Public  
My Commission Expires: 10/15/2012

File No. 321.0679



RE: 384 Lovell Street, Worcester, MA 01602

FORECLOSURE DEED

US Bank, National Association, having its usual place of business at 4801 Frederica Street, Owensboro, KY, 42301

the present holder of a mortgage

from Juan D. Alvarez to Mortgage Electronic Registration Systems, Inc. dated November 28, 2007

recorded with the Worcester County (Worcester District) Registry of Deeds at Book 42155, Page 256, by the power conferred by said mortgage and by every other power, for ONE HUNDRED FIFTY-FIVE THOUSAND TWO HUNDRED DOLLARS AND 00/100 (\$155,200.00) paid, grants to Federal Home Loan Mortgage Corporation, 8200 Jones Branch Drive, McLean, VA 22102-3110 the premises conveyed by said mortgage.

This conveyance is exempt from the Massachusetts Deed Excise, M.G.L.C. 64D Section 1, pursuant to Massachusetts Department of Revenue Directive 91-2 (Sept. 19, 1991), and pursuant to 12 United States Code Sections 1452, 1723a, or 1835.

Executed as a sealed instrument this 23rd day of March, 2011.

See Power of Attorney recorded herewith. US Bank, National Association  
By Orlans Moran, PLLC  
Its Attorney-in-fact POA 47238-35

For signatory authority, see Delegation of Authority and Appointment registered with the Suffolk County Registry of Deeds as Document Number 776825 By: Caleb J. Shureb  
Caleb J. Shureb,  
Authorized Signatory, Real Property

*Affidavit*

Orlans Moran PLLC, under the pains and penalties of perjury on oath deposes and says that it does not have knowledge of revocation or termination of the Power of Attorney by the principal or by termination of the existence of the principal. POA 47238-35

By: Caleb J. Shureb  
Caleb J. Shureb,  
Authorized Signatory, Real Property

Return to:  
Orlans Moran PLLC  
P.O. Box 5041  
Troy, MI 48007-5041  
File Number: 321.0679

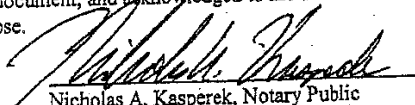
RE: 384 Lovell Street, Worcester, MA 01602

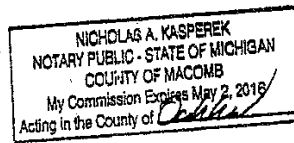
STATE OF MICHIGAN

OAKLAND, SS

MARCH 23, 2011

On this 23rd day of March, 2011, before me, the undersigned notary public, personally appeared Caleb J. Shureb, Authorized Signatory, Real Property, of Orlans Moran PLLC, as attorney-in-fact for US Bank, National Association, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

  
Nicholas A. Kasperek, Notary Public  
My Commission Expires: 5/2/2016



RE: 384 Lovell Street, Worcester, MA 01602

Return to:  
Orlans Moran PLLC  
P.O. Box 5041  
Troy, MI 48007-5041  
File Number: 321.0679



RE: 384 Lovell Street, Worcester, MA 01602

*Affidavit of Sale*

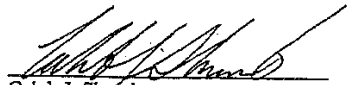
I, Caleb J. Shureb, Authorized Signatory, Real Property of Orlans Moran PLLC under Power of Attorney for US Bank, National Association, ("Lender") named in the foregoing deed, make oath and say that the principal, interest and other obligations mentioned in mortgage from above referred to were not paid or tendered or performed when due or prior to the sale, and that I caused to be published on the 27th day of January, 2011, on the 3rd day of February, 2011 and on the 10th day of February, 2011, in the Worcester Telegram & Gazette a newspaper published or by its title page purporting to be published in Worcester and circulated in Worcester, a copy of which is attached hereto as Exhibit A.

I also have complied with Chapter 244, Section 14 of Massachusetts General Laws, as amended, by mailing the required notices by certified mail, return receipt requested, (if checked) I also gave the Internal Revenue Service notice by mailing Notice of Sale pursuant to Section 7425(c) of the Internal Revenue Code.

Pursuant to said notice at the time and place therein appointed, the sale was postponed by public proclamation upon the mortgaged premises to March 21, 2011, and thereupon

The Lender sold the mortgaged premises at public auction by Christine Parcher, a licensed auctioneer, of Towne Auction to the successful purchaser US Bank, National Association, 4801 Frederica Street, Owensboro, KY, 42301, for the sum of ONE HUNDRED FIFTY-FIVE THOUSAND TWO HUNDRED DOLLARS AND 00/100 (\$155,200.00).

Said bid was then assigned to Federal Home Loan Mortgage Corporation as evidenced by Assignment of Bid recorded herewith as Exhibit B.

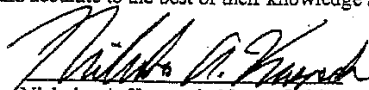
  
Caleb J. Shureb,  
Authorized Signatory, Real Property of  
Orlans Moran, PLLC, attorney-in-fact for  
US Bank, National Association

STATE OF MICHIGAN

OAKLAND, SS

MARCH 23, 2011

On this 23rd day of March, 2011, before me, the undersigned notary public, personally appeared Caleb J. Shureb, Authorized Signatory, Real Property, of Orlans Moran PLLC, as attorney-in-fact for US Bank, National Association, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person(s) whose name(s) is on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of their knowledge and belief.

  
Nicholas A. Kasperek, Notary Public  
My Commission Expires: 5/2/2016

Return to:  
Orlans Moran PLLC  
P.O. Box 5041  
Troy, MI 48007-5041  
File Number: 321.0679

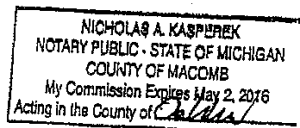


EXHIBIT "A"

ATTACHED TO AND FORMING A PART OF FORECLOSURE DEED AND  
AFFIDAVIT IN LAND COURT CASE NO. 437852 FOR PROPERTY LOCATED AT  
384 LOVELL STREET, WORCESTER, MA 01602

RE: 384 Lovell Street, Worcester, MA 01602

**LEGAL NOTICES**

**MORTGAGEE'S NOTICE OF SALE OF REAL ESTATE**

By virtue and in execution of the Power of Sale contained in a certain Mortgage given by JUNE D. ADVISER to Mortgage Electronic Registration System, Inc., dated November 28, 2007 and recorded with the Worcester County Superior Court Registry of Deeds at Book 42155, Page 256 of which the Mortgagee the undersigned is the present holder by assignment for breach of the conditions of said Mortgage and for the purpose of foreclosing same will be sold at Public Auction at 10:00 AM on February 17, 2011 at 384 Lovell Street, Worcester, MA, all and singular the premises described in said Mortgage, to wit:

Land situated in the City of Worcester, Worcester County, Massachusetts, bounded and described as follows:

Beginning at a point on the easterly line of Lovell Street and said point being the south westerly point of Lot 1.

THENCE South 72 degrees 04' 19" East by land now or formerly owned by D&S, a distance of one hundred thirty-eight and sixty hundredths (138.60) feet to a point by said land now or formerly owned by Goldsmith;

THENCE North 43 degrees 29' 25" East, a distance of fifty-eight and seventy-nine hundredths (58.79) feet to a point;

THENCE North 79 degrees 44' 21" West by Lot 2, a distance of one hundred thirty-two and seventy-three hundredths (132.73) feet to a point in the easterly line of Lovell Street;

THENCE North 19 degrees 20' 30" West by Lovell Street, a distance of sixty-one and seventy-three hundredths (61.73) feet to the point of the beginning.

Containing, by calculation 8199.51 square feet of land and being delineated as Lot 1, on a plan entitled "Land in Worcester, Massachusetts" dated June 24, 2005, and produced for filing with the Worcester District Registry of Deeds in Plan Book 429, Plan 37, George E. Smith & Associates, A Division of H.S. & T. Group, Inc., Worcester, MA.

For title see Deed dated 09/07/2005 recorded at Book 37292, Page 392.

The premises are to be sold subject to and with the benefit of all easements, restrictions, building and zoning laws, unpaid taxes, tax liens, water bills, municipal liens and assessments, rights of eminent domain and parties in possession.

**TERMS OF SALE:**

A deposit of FIVE THOUSAND DOLLARS AND 00 CENTS (\$5,000.00) in the form of a certified check or bank treasurer's check will be required to be deposited at or before the time the bid is offered. The successful bidder will be required to execute a Foreclosure Sale Agreement immediately after the close of the bidding. The balance of the purchase price shall be paid within thirty (30) days from the date of the closing. The balance of the purchase price shall be paid in the form of a certified check, bank treasurer's check or other check satisfactory to the Mortgagee's attorney. The Mortgagee reserves the right to bid in the sale, to reject any and all bids, to amend the sale and to amend the terms of the sale by written or oral announcement made before or during the foreclosure sale. If the sale is set aside for any reason, the Purchaser at the sale shall be entitled only to a refund of the deposit paid. The purchaser shall have no further recourse against the Mortgagee, the Mortgagee or the Mortgagee's attorney. The description of the premises contained in said mortgage shall control in the event of an error in the publication. TIME WILL BE OF THE ESSENCE.

Other terms if any, to be announced at the sale.  
U.S. Bank, National Association,  
Present Holder of said Mortgage,  
By its Attorneys, Orlans Moran PLLC,  
P.O. Box 5041,  
Troy, MI 48007-5041  
Phone: (313) 552-4100

January 27, & February 3, 10, 2011

Return to:  
Orlans Moran PLLC  
P.O. Box 5041  
Troy, MI 48007-5041  
File Number: 321.0679

EXHIBIT B

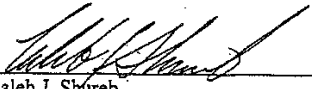
ASSIGNMENT OF BID

Whereas, US Bank, National Association, 4801 Frederica Street, Owensboro, KY, 42301 ("Assignor"), was the successful purchaser at the public sale of property located at 384 Lovell Street, Worcester, MA, 01602, which sale was made on the premises hereinabove described on March 21, 2011 at 03:00 PM by US Bank, National Association, 4801 Frederica Street, Owensboro, KY, 42301, dated November 28, 2007 and recorded with the Worcester County (Worcester District) Registry of Deeds at Book 42155, Page 256, of which Mortgage the undersigned is the present holder by Assignment.

FOR VALUE RECEIVED, the undersigned Assignor unconditionally sells, assigns, and sets over unto Federal Home Loan Mortgage Corporation, 8200 Jones Branch Drive, McLean, VA 22102-3110, its successors and assigns, ("Assignee"), all of the Assignor's right, title and interest in and to said bid for the said property with the right to said Assignee to take and receive title thereto by conveyance directly from said Mortgagee pursuant to its power and authority under and by virtue of the aforesaid Mortgage.

Executed as a sealed instrument this 23rd day of March, 2011.

US Bank, National Association,  
By its Attorney-in-Fact,  
Orlans Moran PLLC POA 47238-35

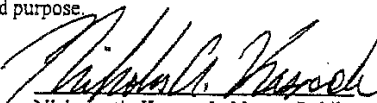
  
Caleb J. Shureb,  
Authorized Signatory, Real Property

STATE OF MICHIGAN

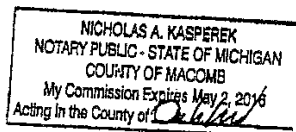
OAKLAND, SS

MARCH 23, 2011

On this 23rd day of March, 2011, before me, the undersigned notary public, personally appeared Caleb J. Shureb, Authorized Signatory, Real Property of Orlans Moran PLLC, as Attorney-in-Fact for US Bank, National Association, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

  
Nicholas A. Kasperek, Notary Public  
My Commission Expires: 5/2/2016

Return to:  
Orlans Moran PLLC  
P.O. Box 5041  
Troy, MI 48007-5041  
File Number: 321.0679



ATTEST: WORC. Anthony J. Vigliotti, Register

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JUAN D. ALVAREZ,

Plaintiff,

v.

U.S. BANK N.A. AND FEDERAL HOME  
MORTGAGE ASSOCIATION,

Defendant.

Case No. 4:11-cv-12324-FDS

**AFFIDAVIT OF MARIA  
LAWRENCE IN OPPOSITION TO  
PLAINTIFF'S APPLICATION FOR  
PRELIMINARY RESTRAINTS**

I, MARIA LAWRENCE, under oath state and depose as follows:

1. I am employed by U.S. Bank National Association ("U.S. Bank") as a foreclosure manager. I am an officer at U.S. Bank and have the title of assistant vice-president. I have been employed at U.S. Bank for eleven (11) years – one in Asset Reconciliation and ten (10) years in the Foreclosure Department where I have worked as a foreclosure manager for the last five years. My office is in Owensboro, Kentucky.

2. My responsibilities as a foreclosure manager include the supervision of over 100 hundred employees. I, along with my colleagues, handle the servicing of residential mortgage loans. I am familiar with the practices and procedures of U.S. Bank in connection with servicing residential mortgage loans, including the loan made to the plaintiff Juan D. Alvarez ("Alvarez") which is at issue in this case. I am also familiar with the loan made to Mr. Alvarez based on my review of the loan file.

3. I make this affidavit in opposition to Mr. Alvarez' application to restrain U.S. Bank from bringing an eviction action to remove of Mr. Alvarez from the property.

*Eviction  
case has been  
dismissed because  
of BANK'S  
non appearance*

### THE LOAN ORIGINATION

4. On November 28, 2007, Mr. Alvarez refinanced his house located in Worcester, Massachusetts (the "Property") by obtaining a loan in the amount of \$247,500 (the "Loan"). The original lender was Metrocities Mortgages, LLC ("Metrocities").

5. The documents executed in connection with the loan include a promissory note ("Note") and mortgage ("Mortgage"), both dated November 28, 2007. True copies of the Note and the Mortgage are attached hereto as Exhibits A and B respectively. The Note and Mortgage together with other documents executed in connection with the Loan are hereinafter referred to as the Loan Documents.

6. In around December, 2007, Metrocities transferred the Loan and all rights in the Loan Documents to the Federal Home Loan Mortgage Corporation ("Freddie Mac"). As a result, Freddie Mac is a transferee of the Loan, including the Note and Mortgage.

*No proof of this of any kind*

### U.S. BANK'S ROLE AS SERVICER

7. U.S. Bank is the servicer of the Loan. U.S. Bank became the servicer of the Loan in or around December, 2007 by virtue of a servicing agreement between U.S. Bank and Freddie Mac.

8. Pursuant to the terms of the servicing agreement between U.S. Bank and Freddie Mac, U.S. Bank services Freddie Mac loans according to Freddie Mac servicing guidelines. In accordance with those guidelines, and in connection with the transfer of the Loan, the Note was endorsed by Metrocities to U.S. Bank. U.S. Bank then endorsed the Note in blank. The Note has been in the possession of U.S. Bank since around December, 2007.

*No safe or secret  
No custody, no  
proof of  
signature  
as mortgage*

9. The Freddie Mac servicing guidelines also provide that servicers of loans such as U.S. Bank must bring foreclosure actions in the name of the servicer, and not in the name of

Freddie Mac. A true copy of the relevant section of the Freddie Mac servicing guidelines is as they concern foreclosure actions is attached as Exhibit C. Therefore, actions taken with respect to the foreclosure of the Alvarez Loan have been undertaken in the name of U.S. Bank by virtue of its role as servicer for Freddie Mac.

*generic doc - up proof is applied in this case*

#### THE HAMP APPLICATION

10. Mr. Alvarez defaulted on the Loan by failing to make the monthly payment installment that was due on the Loan. The total arrears on the Loan now due and owing from Mr. Alvarez are approximately \$60,366.10, excluding late charges and attorney fees, dating back to the monthly payment due as of September 1, 2009.

11. I understand that Mr. Alvarez claims that U.S. Bank proceeded with the foreclosure sale on the Property while Mr. Alvarez had an application pending under the Home Affordable Modification Program ("HAMP"). Mr. Alvarez is incorrect.

12. U.S. Bank received a HAMP application from Mr. Alvarez on around January 20, 2011. Prior to that date, U.S. Bank had scheduled a foreclosure sale for February 17, 2011.

13. Following receipt of the HAMP application, U.S. Bank had communications with Mr. Alvarez requesting additional information to complete his application. U.S. Bank cancelled the February 17, 2011 sale date, pending completion of its review of Mr. Alvarez' HAMP application.

14. U.S. Bank completed the review and determined that Alvarez was not eligible for a HAMP modification because, among other things, Mr. Alvarez had a negative cash flow and his income would not support payments on the Loan even if modified.

15. On February 16, 2011, U.S. Bank sent a letter to Mr. Alvarez advising him that his application had been denied. As of that time, the February 17, 2011 foreclosure sale date had

been adjourned with a new sale date set for March 21, 2011. A copy of the February 16, 2011 letter is attached as Exhibit D.

16. Following the issuance of the denial letter, Mr. Alvarez contacted U.S. Bank submitted an updated profit and loss statement. That information was reviewed. On March 11, 2011, a U.S. Bank representative had another conversation with Mr. Alvarez and advised him that he still did not qualify even under the revised profit and loss statement because he did not have sufficient income and was in a negative cash flow situation.

*He submitted a complete application*

17. On around March 15, 2011, U.S. Bank received yet another updated profit and loss statement. Even under the second revised profit and loss statement, Alvarez still had a negative cash flow. As a result, U.S. Bank called and left a message with Alvarez on March 17, 2011 advising that he still did not qualify for a HAMP modification or any other type of modification.

*The bank did not speak with him - this affidavit shows no proof*

18. U.S. Bank proceeded with a foreclosure sale on March 21, 2011. U.S. Bank, on behalf Freddie Mac, was the successful bidder. The Property is now owned by Freddie Mac.

*does not even*

19. As set forth above, Mr. Alvarez's HAMP application was considered and denied on February 16, 2011, weeks before the March 21 sale took place. U.S. Bank even considered supplemental information provided by Mr. Alvarez after his application was denied. The supplemental information did not merit a revision of the denial of Mr. Alvarez's HAMP application.

*name bank rep.*

*Denials by HAMP regs must be in writing - including this further turn down.*

### THE PROMISSORY NOTE AND THE MORTGAGE

20. Mr. Alvarez seems to take issue with the fact that MERS and U.S. Bank are involved with his Loan and that he had "no inkling that [MERS and U.S. Bank] might claim any future role in the handling of his mortgage."

*This is a straight QB claim*

21. With respect to MERS, the Mortgage attached as Exhibit A states clearly that MERS will be the nominee on the Mortgage for the original lender Mertocities or the successors and assigns of Metrocities.

*He had no advance review of docs, had no way of his own, was not advised to, he translated, no explanation at closing, rushed thru signing*

22. With respect to U.S. Bank's involvement, Mr. Alvarez was advised that U.S. Bank had become the servicer of the Loan by a Notice of Assignment, Sale or Transfer of Servicing Rights ("Notice of Transfer of Servicing Rights") dated December 21, 2007 in which Mr. Alvarez was advised that U.S. Bank would be the new servicer and that payments should be sent to U.S. Bank. Mr. Alvarez then sent his mortgage payments to U.S. Bank as required by the notice. A copy of the Notice of Transfer of Servicing Rights is attached as Exhibit E.

*irrelevant*

23. As servicer of the Loan on behalf of Freddie Mac, and in accordance with Freddie Mac servicing regulations, U.S. Bank had the right to bring the foreclosure action in its own name. U.S. Bank has custody and possession of the original Note and has had custody of the original Note since the foreclosure action was commenced.

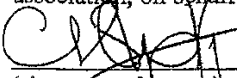
Signed under the penalty of perjury this 24<sup>th</sup> day of January, 2012.

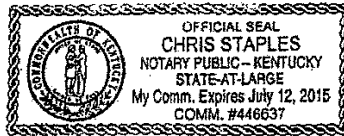
  
MARIA LAWRENCE.

~~\* This affidavit is problem~~

State of Kentucky  
County of Daviess

The foregoing instrument was *acknowledged*, subscribed, and sworn to before me this 1/24/12 (date), by Maria Lawrence(name(s) as Assistant Vice President (title(s) of authorized affiant(s)) of U.S. Bank National Association, a federally chartered banking association, on behalf of U.S. Bank National Association.

  
(signature of notary)





We make home possible

## Freddie Mac Single-Family Seller/Servicer Guide

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### Freddie Mac Single-Family Seller/Servicer Guide

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#### Bulletins and Industry Letters

#### Single-Family Seller/Servicer Guide, Volume 1

#### Single-Family Seller/Servicer Guide, Volume 2

#### Copyright and Authorized Version

#### Chapter 50: Introduction

#### Chapter A50: Requirements for Servicing Mortgages Using the Freddie Mac Service

#### Chs. 51-57: General Freddie Mac Policies

#### Chs. 58-63: Servicing Performing Mortgages

#### Chs. 64-69: Servicing Nonperforming Mortgages

#### Chapter 64: Delinquencies

#### Chapter 65: Loss Mitigation

#### Chapter A65: Reinstatements and Relief Options

#### Chapter B65: Workout Options

#### Chapter C65: Home Affordable Modification Program

#### Chapter D65: Home Affordable Foreclosure Alternatives

#### Chapter 66: Foreclosure

##### 66.1: Introduction (10/01/11)

##### 66.2: Foreclosure process (10/01/11)

##### 66.3: Foreclosure process (10/01/11)

##### 66.4: General requirements (01/14/11)

##### 66.5: Freddie Mac's rights (06/30/11)

##### 66.6: Beginning the foreclosure process (10/01/11)

##### 66.7: Beginning the foreclosure contents (10/01/11)

##### 66.8: Initiation of foreclosure (01/14/11)

##### 66.9: Pre-referral account review (10/01/11)

##### 66.9.1: When to initiate foreclosure on a First-Lien or a Second Mortgage/H

##### 66.9.2: Solicitation during the foreclosure process (10/01/11)

##### 66.10: When to initiate foreclosure on a Second Mortgage/Home Improveme

##### 66.11: Delaying Initiation of foreclosure (10/01/11)

##### 66.12: Approving Initiation of foreclosure on a First-Lien Mortgage or Secor

##### 66.12.1: Approving Initiation of foreclosure on Mortgaged Premises owned l

##### 66.13: Approving Initiation of foreclosure on a Second Mortgage/Home Imp

##### 66.14: Tenant-occupied properties built before 1978 (06/30/11)

##### 66.15: How to select foreclosure counsel or trustee (10/01/11)

##### 66.15.1: Compensatory fee for failure to use designated counsel or trustee

##### 66.15.2: Foreclosure counsel and trustee fees (10/01/11)

##### 66.16: Initiating foreclosure (01/14/11)

##### 66.16.1: Initiating foreclosure on a Mortgage secured by a Manufactured Ho

##### 66.17: Foreclosing in the Servicer's name (04/01/11)

##### 66.18: What is the first legal action? (11/15/07)

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Glossary (10/01/11)

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#### Reference

Single-Family  
Seller/Servicer  
Guide, Volume 1  
Glossary

Glossary (10/01/11)

Changes to these requirements have been announced and will become effective on 03/19/12.

2- to 4-Unit  
Condominium  
Project

A 2- to 4-Unit Condominium Project is a project that is comprised of at least two but no more than four 1-unit dwellings that are each separately owned with separate legal descriptions.

11<sup>th</sup> District Cost of Funds Index (11<sup>th</sup> District COFI)

For adjustable-rate

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Freddie Mac Single-Family Seller/Servicer Guide / Single-Family Seller/Servicer Guide, Volume 2 /  
Chs. 64-69: Servicing Nonperforming Mortgages / Chapter 66: Foreclosure / 66.17: Foreclosing in  
the Servicer's name (04/01/11)

**66.17: Foreclosing in the Servicer's name (04/01/11)**

The Servicer must instruct the foreclosure counsel or trustee to process the foreclosure in the Servicer's name.

If an assignment of the Security Instrument to Freddie Mac has been recorded, then the Security Instrument must be assigned back to the Servicer before the foreclosure counsel or trustee files the first legal action. Refer to Section 66.18 for an explanation of first legal action.

To have the Security Instrument assigned back to the Servicer, the Servicer must submit a completed assignment with Form 105, Multipurpose Loan Servicing Transmittal, to Freddie Mac (see Directory 9). Freddie Mac will execute the assignment and return it to the Servicer within seven Business Days of receiving the documents.

If the Servicer is foreclosing on a Mortgage registered with the Mortgage Electronic Registration Systems Inc. (MERS), the Servicer must prepare an assignment of the Security Instrument from MERS to the Servicer and instruct the foreclosure counsel or trustee to foreclose in the Servicer's name and take title in Freddie Mac's name according to the requirements of Section 66.54. The Servicer must record the prepared assignment where required by State law. State mandated recordings are non-reimbursable by Freddie Mac, are not considered part of the Freddie Mac allowable attorney fees and must not be billed to the Borrower.

If the Mortgage is an FHA, Section 502 GRH or VA Mortgage, then the Servicer must follow FHA, Rural Housing Service (RHS) or VA guidelines to determine in whose name the foreclosure action should be brought.

If the Servicer is foreclosing on a property in the State of Oregon, the Servicer must destroy any unrecorded assignment to Freddie Mac no later than 10 days after the date the Servicer refers the foreclosure to its foreclosure attorney or trustee. If the Borrower subsequently reinstates his or her Mortgage, the Servicer does not need to prepare a new assignment to Freddie Mac. Refer to Section 22.14 for additional information on Freddie Mac's requirements for assignments of the Security Instrument.

LOAN# 6850047201 DATE-02-16 USER=FRU KEY=FC613 VERS=010 TITLE=LOSS MIT DENIAL  
LINES=PER-PAGE=NO CONDITIONS=2

1c FORM=LMTS PRINTER=KB2X SECURITY=1

February 16, 2011

Juan D Alvarez  
384 Lovell Street  
Worcester MA 01602

Mortgage Loan Number: 6850047201  
Property Address: 384 Lovell Street  
Worcester MA 01602

Dear Mortgagor(s):

Please be advised that your Default Resolution request has been denied for the following reason(s):

Negative Cashflow  
Investor denied

Collection and/or foreclosure activities will continue on your account. If your financial situation or eligibility status should change, or if you are interested in a Pre-Foreclosure Sale or a Deed-in-Lieu of Foreclosure, or can submit any additional information within seven calendar days we may be able to reopen your file for review. Collection and/or foreclosure activities will continue unless other arrangements are made with your mortgage company. If you have any questions regarding the information contained in this letter, please contact our office by dialing 1-800-449-2051.

Sincerely,

Foreclosure Default Resolution Department

fc 613



NOTICE OF ASSIGNMENT, SALE, OR TRANSFER OF  
SERVICING RIGHTS

Borrower Name & Address:

JUAN D ALVAREZ  
334 LOVELL STREET  
WORCESTER, MA 01602

Date: 12/21/2007

Loan Number: 6850047201

Property Address:

334 LOVELL STREET  
WORCESTER, MA 01602

You are hereby notified\* that the servicing of your mortgage loan, that is, the right to collect payments from you, is being assigned, sold or transferred from METROCITIES MORTGAGE LLC to U.S. Bank, N.A., effective February 01, 2008.

The assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or condition of the mortgage instruments other than terms directly related to the servicing of your loan.

Except in limited circumstances, the law requires that your present servicer send you this notice at least 15 days before the effective date at transfer or at closing. Your new servicer must also send you this notice no later than 15 days after this effective date of transfer or at closing.

Your present servicer is METROCITIES MORTGAGE LLC. If you have any questions relating to the transfer of servicing from your present servicer, call the Customer Service Department at METROCITIES MORTGAGE LLC at (818) 981-0606 during normal business hours, Monday-Friday. This is not a toll-free number; please call collect.

Your new servicer will be: U.S. Bank, N.A.

The business address for your new servicer is:

Loan # 6850047201  
P. O. Box 20005  
Owensboro, KY 42304-0005

The toll-free telephone number of your new servicer is: (800) 365-7772

If you have any questions relating to the transfer of servicing to your new servicer, call the Customer Service Department at U.S. Bank Home Mortgage between 8:30 a.m. and 4:30 p.m. Central Time, Monday through Friday.

The date that your present servicer will stop accepting payments from you is: January 31, 2008

The date that your new servicer will start accepting payments from you is: February 01, 2008

The transfer of servicing rights may affect the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance. You will have to contact your insurance carrier to make arrangements to continue your coverage.

You should also be aware of the following information, which is set out in more detail in Section 6 of RESPA (12 U.S.C. Section 2605):

During the 60 day period following the effective date of the transfer of the loan servicing, a loan payment received by your old servicer before its due date may not be treated by the new loan servicer as late, and a late fee may not be imposed on you.

Section 6 of RESPA (12 U.S.C. Section 2605) gives you certain consumer rights. If you send a "qualified written request" to your loan servicer concerning the servicing of your loan, your servicer must provide you with a written acknowledgement within 20 business days of receipt of your request. A "qualified written request" is a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, which includes your name and account number, and your reasons for the request. Not later than 60 business days after receiving your request, your servicer must make any appropriate corrections to your account, and must provide you with a written clarification regarding any dispute. During this 60 business day period, your servicer may not provide information to a consumer reporting agency concerning any overdue payment related to such period or qualified written request. However, this does not prevent the servicer from initiating foreclosure if proper grounds exist under the mortgage documents.

A business day is any day, excluding legal public holidays (state or federal), Saturday and Sunday.

Section 6 of RESPA also provides for damages and costs for individuals or classes of individuals in circumstances where servicers are shown to have violated the requirements of that Section. You should seek legal advice if you believe your rights have been violated.

\* This notification is a requirement of Section 6 of the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2605).

## **KUNAR: 'FORECLOSURE' BY NON-MORTGAGEE VOID**

The Kunars executed a Promissory Note to National City Mortgage Co. The Note provided to the Kunar's in discovery has a clear indenture saying "FredMac". Freddie Mac bought the whole loan, i.e., the Kunars' Note and their mortgage securing the loan's repayment.

So Freddie became the mortgagee. Freddie and Fannie Mae buy only whole loans. Correspondence not included here refers to this as a Freddie Mac loan. PNC Mortgage, a Division of PNC Bank, National Association purported to foreclose in its own name as the mortgagee. Yet PNC was not the mortgagee. It was merely Freddie Mac's loan servicer.

The purported foreclosure was therefore void. Legally, it never happened. The Kunars have not only been 'foreclosed', but also they and their disabled daughter have been illegally evicted.

## NOTE

March 12, 2004

[Date]

WHITINSVILLE

[City]

MASSACHUSETTS

[State]

18 KNAPP AVE, WORCESTER, Massachusetts 01605

[Property Address]

FredMac#: 723745091

### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 157,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is NATIONAL CITY MORTGAGE CO

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

### 2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 5.875 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

### 3. PAYMENTS

#### (A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on May 1, 2004. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on April 1, 2034, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at National City Mortgage Co.,  
P O Box 17677, Baltimore, MD 21297-1677 or at a different place if required by the Note Holder.

#### (B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 987.87.

### 4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

SN 16207

Form 3200 1/81

NMP MORTGAGE FORMS - (800)621-7251

Page 1 of 3

Initials: JK DK



## 5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

## 6. BORROWER'S FAILURE TO PAY AS REQUIRED

### (A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 3.00 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

### (B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

### (C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

### (D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

### (E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

## 7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

## 8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

## 9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

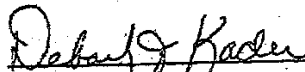
**10. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.


If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

  
DEBORAH J. KADER (Seal)  
-Borrower

  
JENNIFER A. KADAR (Seal)  
-Borrower

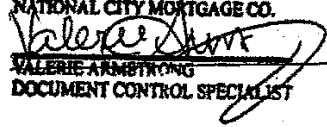
\_\_\_\_\_  
(Seal)  
-Borrower

  
\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

WITHOUT RECOURSE  
NATIONAL CITY MORTGAGE CO.  
  
VALERIE ARMSTRONG (Seal)  
DOCUMENT CONTROL SPECIALIST -Borrower

(Sign Original Only)

## Yes. Our records show that Freddie Mac owns your mortgage and your note date (the date you closed your loan) – is March 12, 2004.

En español

You may be eligible for the Home Affordable Refinance Program (HARP) if your note date is on or before May 31, 2009.

### What to Do Next

**1. For help with your mortgage, contact your lender and let them know you would like to pursue assistance through the federal Making Home Affordable (MHA) program.**

a. Your lender, the company to which you make your mortgage payments (also referred to as a mortgage servicer), can help you determine if you are eligible for the options under MHA.

- If you are current on your mortgage payments, but have been unable to refinance because you have little or no equity in the home, [HARP](#) may help you obtain a lower interest rate or more stable mortgage.
- If you are behind in making your mortgage payments or believe you may soon fall behind, a [Home Affordable Modification](#) may help you obtain more affordable mortgage payments.
- If it is not realistic for you to keep your home, a [short sale](#) or "[deed-in-lieu of foreclosure](#)" may help you transition to more affordable housing.

Freddie Mac is working with its lenders to offer these solutions to eligible borrowers with Freddie Mac-owned mortgages. *Because Freddie Mac does not work directly with consumers, you will need to work with your lender to determine your best foreclosure prevention option.*

b. **If you are not eligible for MHA**, don't give up! Ask your lender about [other options](#) to make your payments more affordable or to avoid foreclosure. There are other options available for homeowners with Freddie Mac-owned mortgages that are available through your lender.

**2. If you are unable to reach your lender, call a U.S. Department of Housing & Urban Development (HUD)-certified housing counselor at 1-800-569-4287 or [visit the web site](#) <sup>#</sup> to find a housing counselor in your area.**

Housing counselors can help you contact and work with your lender to get help with your mortgage – free of charge

### Avoiding Foreclosure Resources

- [Mortgage Help: Understanding Your Options](#)
- [Working with Your Lender](#)
- [Who to Contact for Help](#)
- [Avoiding Fraud](#)

### Steps to Get Started with HARP

1. See if Freddie Mac Owns Your Loan
2. Learn More About HARP
3. Check Your Eligibility for HARP
4. Get Prepared and Call Your Lender
5. Find a HARP Lender

### Support Information

- **Be informed.** Visit our [Avoiding Foreclosure Resource Center](#) for information and guidance on alternatives to foreclosure, working with your lender, avoiding fraud and more.
- **Be patient and diligent.** Lenders are working hard to get to every call and sometimes it takes longer than you expect.
- **Get prepared.** Before you call your lender, here's what you'll need for [your conversation](#).

Learn more about the options available to you under [MHA](#) <sup>#</sup>.

Thank you for contacting Freddie Mac. One of our top priorities is making sure homeowners with Freddie Mac-owned

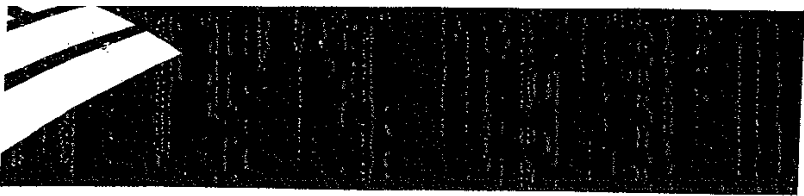
## **PALMACCIO: FANNIE MAE MORTGAGEE BUT NOT FORECLOSING ENTITY; FORECLOSURE VOID**

The Palmaccio materials show that the servicer held itself out to the world as if it were the actual mortgagee. This is a Fannie Mae mortgage, as demonstrated in several of these documents: clear statements by the servicer that it is only the servicer, and even references to the ownership by Fannie Mae. What is most obvious, however, are the Fannie Mae trademarks that pepper these documents; by legal authorization by Fannie Mae, therefore, this could only be a Fannie Mae mortgage.


Further, included here are examples where Green Tree Servicing LLC sends the same document twice. One time it claims that it's a proprietary loan modification from Greentree or from HAMP and then, at the same time, sending loan modification related information directly acknowledging that the loan was held by Fannie Mae. So Green Tree itself does not seem to have been clear that Fannie Mae had the mortgage.

Evidence makes it clear that Fannie Mae was the mortgagee. Yet, Green Tree foreclosed in its own name and, therefore, the purported foreclosure was void by operation of law.

Nevertheless, Palmaccio and her young son were illegally evicted.



avoid foreclosure.  
This offer will expire on  
August 18, 2012.  
Call today to take  
advantage of this offer.



Kate Palmaccio  
2B Autumn Dr  
Hudson, MA 01749

July 19, 2012  
Loan# XXXXX3399

Dear Kate Palmaccio:

As your home loan servicer, we want to help you find a solution to avoid foreclosure on your property. Even though a loan modification or short sale is not an option for your loan, we may be able to offer you a Deed in Lieu of Foreclosure to settle the debt on your loan.

**What is a Deed In Lieu of Foreclosure?**

A Deed in Lieu of Foreclosure is designed to help borrowers who are unable to afford their mortgage payment and want to avoid foreclosure. With a Deed in Lieu of Foreclosure, you voluntarily transfer ownership of your house and all property secured by your mortgage loan to us to satisfy the total amount due on the first mortgage.

A Deed in Lieu of Foreclosure spares you from having to go through the public auction or sale of your house and will release you from all responsibility to repay the mortgage debt. In addition, a deed in lieu of foreclosure generally takes less time to complete than a foreclosure, so your reported delinquency could be shorter than it would with a foreclosure. As a result, your credit may improve sooner than it would if your house were to go into foreclosure.

As part of the Deed In Lieu of Foreclosure offer, you may be eligible to receive relocation assistance of up to \$3,000.00 if you meet the program guidelines. The attached Terms and Conditions include the program guidelines and requirements. You must respond to this offer by August 18, 2012.

Additionally, you may be eligible for a program called Deed-for-Lease™ that would allow you to remain in your home. With Deed-for-Lease, you can lease the property after you have completed the Deed In Lieu of Foreclosure. The program is available for most loan types and properties (Home Equity Conversion Mortgage [reverse], USDA Rural, FHA, VA, and second [2<sup>nd</sup>] lien loans are excluded).

We are working with REDC Default Solutions, a third party company and experts in deed in lieu solutions. Their specialists are available to answer any questions you may have about the process or agreement. Please call REDC Default Solutions at 1.800.694.4874 directly for more information.

## How Does a Deed In Lieu of Foreclosure Work?

Step 1: You will receive a phone call from REDC Default Solutions in the next 5 to 7 days and they will ask if you agree to a Deed in Lieu of Foreclosure. At that time, you may also be asked to provide the following additional documents to verify your financial situation:

- For each borrower who receives a salary or hourly wages, copies of your two most recent pay stubs that show year-to-date earnings
- For each borrower who is self-employed, a copy of your most recent federal income tax return or IRS form 4506-T (Request for Transcript of Tax Return) completed and signed
- Copies of your two most recent bank statements

If additional documents are required:

Fax to: 1.888.740.3832

Or, mail to:

Bank of America, N.A.  
c/o REDC Default Solutions  
6200 Tennyson Pkwy, Suite 110  
Plano, TX 75024-6100

Step 2: It will be determined if there are any outstanding liens against your property. You will be contacted to discuss the additional financial documents required and the relocation assistance you may receive to help you with moving, rental, and relocation expenses.

Step 3: Your deed in lieu request will be accepted or declined in 14 days after all the documentation is received and the review process is complete. If your deed in lieu of foreclosure is approved, the transfer of title documents will be sent to you. This could take up to 60 days. Everyone with an ownership interest in the property must sign the required transfer of title documents and return them by the date specified on the documents. You will be required to have these documents notarized.

Step 4: If you choose not to lease the property through the Deed-for-Lease™ program, you will need to vacate the property and leave the property in good condition. Specific details are included in the attached Terms and Conditions.

Carefully review the attached terms and conditions to determine if you want to move forward with a Deed in Lieu. If any of the Terms and Conditions are not met, we will cancel this offer and continue the foreclosure process in accordance with your loan documents. We may begin or continue the foreclosure process as permitted by your mortgage documents, until the transfer of the title on your property has been completed. However, we will attempt to postpone any pending foreclosure sale, provided that all borrowers on the loan are complying with the terms and conditions of the agreement but postponement is not guaranteed and may depend on the approval of the court or public official handling your sale.

Please call REDC Default Solutions at 1.800.694.4874, between the hours of 7:00 a.m. and 9:00 p.m. Central, Monday through Friday to learn more about this Deed in Lieu of Foreclosure offer. You can also fax REDC Default Solutions at 1.888.740.3832. This offer is not valid after August 18, 2012.

If you are interested in leasing your property after the Deed in Lieu of Foreclosure is completed, please be sure to ask for information on the Deed-for-Lease™ program. You will need to have your loan number and the last four digits of your Social Security number available when you call.

Bank of America, N.A.

Enclosures  
SCRA Notice

In order to expedite this process, Bank of America, N.A. is working with a third party company, REDC Default Solutions. Federal law requires that we communicate to you that Bank of America, N.A. and REDC Default Solutions are debt collectors. However, the purpose of the communication is to let you know about your potential eligibility for this program to help you avoid foreclosure.

### Deed In Lieu of Foreclosure Agreement

The following are the terms and conditions of the Deed in Lieu of Foreclosure Agreement ("Agreement"):

1. **Property Maintenance and Expenses.** Until you complete the Deed in Lieu of Foreclosure process, you are responsible for all property maintenance and expenses of your Property. These expenses include utilities, assessments, association dues, and costs for interior and exterior maintenance. Additionally, you must report any and all property damage to us and file a hazard insurance claim for covered damage. Unless insurance proceeds are used to pay for repairs or personal property losses, we may require that insurance funds be applied to reduce the mortgage debt.
2. **Property Condition.** Unless your request for a Deed-for-Lease™ is approved, you must leave the house in clean condition, free of interior and exterior trash, debris or damage, and all personal belongings must be removed from the property. Appliances and fixtures that are in the home at the time the Deed in Lieu of Foreclosure Agreement is signed must remain in the home through the transfer of title. The yard must be clean and neat. If the property is deemed to be in unsatisfactory condition, the Deed in Lieu of Foreclosure offer could be rescinded and the funds typically paid to you could be used to repair the property.
3. **Title.** Unless otherwise agreed in writing and your request for a Deed-for-Lease™ is approved, all occupants must vacate the property. You must provide a marketable title. In other words, there can be no other liens against the property when the title is transferred to us. We will contribute up to \$6,000 toward paying off any other lien holders. It is your responsibility to work with other lien holders to ensure there are no outstanding liens against the property at the time of the transfer of title.
4. **Borrower Relocation Assistance.** If you comply with all your responsibilities under the Agreement, you may be entitled to relocation assistance of \$3,000.00 to assist with moving, rental, and relocation expenses provided. Once we have received your signed transfer of title, the property has been vacated and we have verified the condition of the property, we will mail the check to you within 10 business days. Only one payment per household is provided for the relocation assistance, regardless of the number of borrowers.
5. **Foreclosure Sale Suspension.** We may begin or continue the foreclosure process as permitted by your mortgage documents, until the transfer of the title on your property has been completed. However, we will attempt to postpone any pending foreclosure sale, provided that all borrowers on the loan are complying with the terms and conditions of the agreement but postponement is not guaranteed and may depend on the approval of the court or public official handling your sale.
6. **Satisfaction and Release of Liability.** If all of the terms and conditions of this Agreement are met upon transfer of title of your property to us by the signed transfer of title document, we will prepare and record a lien release in full satisfaction of the mortgage. If your property is not an investment property and/or a second home we may not pursue a deficiency judgment. We reserve the right to collect the difference between the value of the property and the unpaid balance on investment properties and second homes.
7. **Mortgage Insurer or Guarantor Approval.** The terms and conditions of the Agreement are subject to the written approval of the mortgage insurer or guarantor.
8. **Termination of This Agreement.** We may terminate this Agreement at any time if:
  - a. Your financial situation improves significantly, you qualify for loan modification, you bring the account current, you sell the property, or you pay off the mortgage in full.
  - b. You do not adhere to the Terms and Conditions of the Agreement.
  - c. A significant change occurs to the property condition or value.
  - d. There is evidence of fraud or misrepresentation.
  - e. You file for bankruptcy and the Bankruptcy Court declines to approve the agreement.
  - f. Litigation that could affect title to the property or interfere with the completion of a Deed in Lieu of Foreclosure is initiated or threatened.
9. **Settlement of a Debt.** The proposed transaction represents our attempt to reach a settlement of the defaulted mortgage. You are choosing to enter into this Agreement even though there is no guarantee that the Deed in Lieu of Foreclosure will be approved and completed. If the Deed in Lieu of Foreclosure is not completed or approved, we may proceed with foreclosure.

## Bank of America Home Loans

Bank of America, N.A.  
C/O REDC Default Solutions  
6200 Tennyson Pkwy, Suite 110  
Plano, TX 75024-6100

Kate Palmaccio  
2B Autumn Dr  
Hudson, MA 01749



**Loan Number:** XXXXX3399

**Date:** February 20, 2013

As your home loan servicer, we want you to understand all the options available to you so you can make the best decision for your situation. A Mortgage Release™ may help you avoid foreclosure.

### **What is a Mortgage Release™?**

A Mortgage Release™ is designed to help borrowers who are unable to afford their mortgage payment and want to avoid foreclosure. With Mortgage Release™, you voluntarily transfer ownership of your house and all property secured by your mortgage loan to Fannie Mae to satisfy the total amount due on the first mortgage.

Although a Mortgage Release™ will not allow you to keep the property, it will spare you from going through the public auction or sale of your house and will release you from all responsibility to repay the mortgage debt. In addition, a Mortgage Release™ generally takes less time to complete than a foreclosure, so your reported delinquency could be shorter than it would with a foreclosure. As a result, you may start rebuilding your credit sooner than if your house were to go into foreclosure.

Benefits to you may include:

- Avoiding foreclosure
- Satisfying the outstanding balance on your loan
- Your deficiency balance will be waived – releasing you from any further repayment of the loan on the property now or in the future.\*
- Receiving a cash payment of up to \$3,000 to use toward moving or other expenses
- If eligible, you may be able to lease the property from the lender

Additionally, after you complete a Mortgage Release™ you may be eligible to stay in the property rent free for three months or up to 12 months at a market rental rate. The program is available for most loan types and properties (Home Equity Conversion Mortgage [reverse], USDA Rural, FHA, VA, and second [2<sup>nd</sup>] lien loans are excluded).

We are working with REDC Default Solutions, a third party service provider. Their associates are available to answer any questions you may have about the process or agreement. Please call REDC Default Solutions at 1.800.694.4874 directly for more information.

**This offer will  
expire on  
March 21, 2013**

**Call 1.800.694.4874  
today to take  
advantage of this  
offer.**

### **Important Benefits:**

- You may be eligible to receive up to \$3,000 to assist with relocation, rental and moving expenses
- Eliminate your first mortgage debt – the deficiency balance will be waived.\*
- We will allow a total of up to \$6,000 to help release subordinate mortgage liens
- May allow you to stay in the property for up to 3 months rent free or up to 12 months at market rent

### **Get Started Today.**

**Please call:**


**REDC Default Solutions**

**1.800.694.4874**

**Monday – Friday**

**7:00 a.m. – 9:00 p.m.**

**(Central)**

Mortgages funded and administered by  
an Equal Housing Lender   
Protect your personal information before  
recycling this document

4. **Property Maintenance and Expenses.** Until you complete the Mortgage Release™ process, you are responsible for all property maintenance and expenses of the property, including utilities, assessments, and costs for interior and exterior maintenance. Additionally, you must report any and all property damage to us and file a homeowner's insurance claim for covered damage. If you are entitled to receive any proceeds based on a claim for damage to the property under any policy of insurance, including Bank of America N.A.'s lender-placed, casualty, fire, flood, etc., or if you are entitled to receive other miscellaneous proceeds, as that term is defined in the deed of trust/mortgage (which could include Community Development Block Grant Program (CDBG) funds), these proceeds must be disclosed before we will complete the request for a Mortgage Release™.

If we receive a check for insurance or miscellaneous proceeds that were not previously disclosed, Bank of America N.A. will have the right to keep the proceeds and apply them to Bank of America N.A.'s loss after the Mortgage Release™. We similarly would have the right to claim the proceeds to offset our losses if they were not previously disclosed and they were sent directly to you.

- a. **3 Month Transition or 12 Month Lease:** You are responsible for utilities, lawn care, trash and pool maintenance, unless they are covered by homeowner's association fees or municipal taxes. A property management agent is responsible for monitoring the property to ensure it is being maintained per the lease agreement. You must allow the agents of Fannie Mae access to the property, for the purpose of sales, maintenance and repairs.

5. **Property Condition.** When you leave the property, it must be in clean condition, free of interior and exterior trash, debris or damage, and all personal belongings must be removed from the property. Appliances and fixtures must remain in the property through the transfer of title. The yard must be clean and neat. If the property is deemed to be in an unsatisfactory condition, the Mortgage Release™ offer could be cancelled or the relocation funds typically paid to the borrower could be used to repair the property. If you remain in the property after the property has been transferred back to Fannie Mae, you agree to maintain the property (interior and exterior) and keep it in presentable condition.

You and/or your tenants must agree to maintain the property (interior and exterior) in presentable condition.

6. **Title.** Clear and marketable title to the Property must be transferred. We will contribute a combined total of up to \$6,000 for all subordinate liens on the Property in order of priority, toward paying off any subordinate lien holders. Each subordinate lien holder must release you from personal liability for the loans secured by their liens on the Property in order for you to qualify for this program, but we do not take any responsibility for ensuring that the lien holders do not seek to enforce personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from personal liability.

7. **Borrower Relocation Assistance.** If you comply with all your responsibilities under the Agreement, you may be entitled to relocation assistance of \$3,000.00 to assist with moving, rental, and relocation expenses. If you are not staying in the property and relocation assistance is available, we will mail the check to you within 10 business days once we have received your signed transfer of title, the property has been vacated, and we have verified the condition of the property.

If you stay in the property after the deed has been transferred to Fannie Mae and relocation assistance is available, the property manager will pay the relocation assistance to the borrower at the end of the lease term.

8. **Foreclosure Sale Suspension.** We may begin or continue the foreclosure process as permitted by your mortgage documents, until the transfer of the title on your property has been completed. However, we will attempt to postpone any pending foreclosure sale, provided that all borrowers on the loan are complying with the terms and conditions of the agreement but postponement is not guaranteed and may depend on the approval of the investor, court or public official handling your sale.

November 10, 2014

KATE N. PALMACCIO  
50 WHITING ST  
LUNENBURG MA 01462-1451

Re: Green Tree Servicing LLC ("Green Tree")  
Account Number: 687957969  
Property Address: 50 WHITING ST  
LUNENBURG, MA 01462

**Mortgage Modification Offer --  
YOU'RE APPROVED!**

Contact us today! This offer expires  
11/24/2014.

**THIS INFORMATIONAL NOTICE IS NOT AN ATTEMPT TO COLLECT A DEBT. IF YOU ARE CURRENTLY IN BANKRUPTCY OR YOUR ACCOUNT WAS DISCHARGED IN BANKRUPTCY WITHOUT A REAFFIRMATION, THE SERVICER IS NOT ATTEMPTING TO COLLECT OR RECOVER THE DEBT AS YOUR PERSONAL LIABILITY.**

Dear KATE N. PALMACCIO:

Good news! You have been approved for a **Mortgage Modification Trial Period Plan** with a monthly payment of \$1,461.02. A modification will allow you to resolve your mortgage delinquency, avoid foreclosure and **stay in your home**. (You may also be eligible for a lower interest rate and lower monthly payment; see below for details).

**Don't delay—your offer expires 11/24/2014.**

If you can't pay the Trial Period Plan payment above or are ready to leave the home, other foreclosure prevention options, such as a **Short Sale** or **Mortgage Release™**, may be available. **Call us to see if you qualify.**

**MORTGAGE MODIFICATION OFFER - Stay in Your Home Option**

A modification will lower your monthly mortgage payments to \$1,461.02 and help you avoid foreclosure. To accept this offer and to enter into a Mortgage Modification Trial Period Plan, follow these steps:

**Step 1:** Send your first Trial Period Plan monthly payment of \$1,461.02 by 11/24/2014 and continue to make that payment each month during the trial. Send your trial period payments to:

Green Tree Servicing LLC  
P.O. Box 6172  
Rapid City, SD 57709-6172

**Step 2:** To see if you are eligible for the lowest possible interest rate (potentially as low as 2% for the first five years after the modification). Complete the enclosed Borrower Response Package and submit by 01/02/2015. This will NOT negatively affect your approval status.

**SHORT SALE OR MORTGAGE RELEASE - Leave Your Home Options**

**Short Sale Option**

Allows you to sell the property for less than what is due pursuant to the mortgage documents. With a short sale, you can:

Work with your real estate agent and mortgage company to market and sell your home.

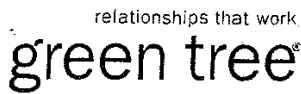
Stop foreclosure.

Get up to \$3,000 for relocation expenses (if eligible).

**Mortgage Release™ Option (deed-in-lieu of foreclosure)**

Lets you transfer the property to your mortgage company. With Mortgage Release™, you can:

- Leave the property on your terms. Exit the home immediately or you may be eligible to stay in the home for up to 3 months (rent free), or stay for up to 12 months (paying a market-rate rent).
- Stop foreclosure.
- Get up to \$3,000 for relocation expenses (if eligible).



Green Tree Servicing LLC  
P.O. Box 6172  
Rapid City, SD 57709-6172

January 05, 2015

KATE N. PALMACCIO  
50 WHITING ST  
LUNENBURG MA 01462-1451

**THIS INFORMATIONAL NOTICE IS NOT AN ATTEMPT TO COLLECT A DEBT. IF YOU ARE CURRENTLY IN BANKRUPTCY OR YOUR ACCOUNT WAS DISCHARGED IN BANKRUPTCY WITHOUT A REAFFIRMATION, THE SERVICER IS NOT ATTEMPTING TO COLLECT OR RECOVER THE DEBT AS YOUR PERSONAL LIABILITY.**

Re: Green Tree Servicing LLC ("Green Tree")  
Account Number: 687957969  
Property Address: 50 WHITING ST  
LUNENBURG, MA 01462

Dear KATE N. PALMACCIO:

Thank you for contacting us about your mortgage. You were evaluated for mortgage payment assistance based upon the eligibility requirements of Fannie Mae, the owner of your mortgage account. Based on a careful review of the information you provided to us, you are not eligible for mortgage modification assistance due to the following reason(s):

- You failed to make trial payments timely.

You have the right to appeal the determination not to offer you loss mitigation assistance. If you would like to appeal, you must contact us within 30 calendar days from the date of this notice and state you are requesting an appeal of this decision. For appeals requested in writing, you must include your name, property address and mortgage account number. You may also specify the reasons for your appeal and provide any supporting documentation. Your right to appeal expires 30 calendar days from the date of this notice. Any appeal requests or documentation received after that date may not be considered. Please contact us Monday – Friday 8 a.m. to 4 p.m. MST at 1-855-858-3873, or at the below-referenced mailing address and fax number.

Green Tree Servicing LLC  
PO Box 6172  
Mail Stop R299  
Rapid City, SD 57709  
Fax: 1-855-895-4481

If you elect to appeal, we will provide you with a written notice of our appeal decision within 30 calendar days of receiving your appeal. Our appeal decision is final and not subject to further appeal.

We recognize that this may be disappointing news for you. However, in order to avoid the negative impacts to your credit rating resulting from late payments and to avoid foreclosure, it is important that you make the full payment, if any payment is currently due, as soon as possible and continue to make your mortgage payment by the scheduled due date.

To bring your mortgage current, you must pay the total past due amount, if any. Please call us if you wish to receive a reinstatement amount for your account. If you are unable to pay your mortgage or bring it current, Green Tree will consider pursuing all available legal remedies up to and including the commencement of foreclosure proceedings. If your mortgage loan is reinstated and you subsequently experience a financial hardship, you may contact us to request reconsideration for mortgage payment assistance or other alternatives to foreclosure.

Please send your payment in the full amount due to:

Green Tree

PO Box 94710  
Palatine, IL 60094-4710

You may be eligible for other workout options offered by Green Tree. Some of the programs that may be available include:

- Short-Sale – A short sale allows you to avoid foreclosure by selling your property and pay off your account. If you sell your property for less than the total amount owed on the account, Green Tree may accept that amount as full satisfaction of your account. Taking this action will not save your home, but Green Tree may pay you cash upon completion of the sale of your home.
- Deed-In-Lieu of Foreclosure – A deed in lieu of foreclosure would allow you to voluntarily deed your property to Green Tree in order to satisfy the account. Taking this action will not save your home, but Green Tree may pay you cash upon completion of the Program.

It is your responsibility to contact Green Tree to discuss your above-referenced account. If you wish to explore your options or have any other questions, please contact your account representative. Your assigned account representative is YVONNE T. at 1-800-643-0202, extension 55176.

Our credit decision may have been based in part upon information obtained in a report from the below-referenced consumer reporting agency listed. You have the right under the Fair Credit Reporting Act to obtain a free copy of your credit report. You must request your free copy within 60 days of the date of this letter. You also have the right to dispute the information contained in your credit report with the credit reporting agency. The credit reporting agency did not make the decision regarding your ineligibility and is not able to provide you with specific reasons as to why you are not eligible for a Loan Modification.

Credit Reporting Agency: Trans Union Consumer Solutions

Reporting Agency Address: P.O. Box 2000  
Chester, PA 19022-2000

Toll Free Number: 1-800-916-8800

Web Address: <http://annualcreditreport.transunion.com/entry/disputeonline>

We also obtained your credit score from this consumer reporting agency and used it in making our credit decision. Your credit score is a number that reflects the information in your consumer report. Your credit score can change, depending on how the information in your consumer report changes.

Your credit score: 511

Date: 09/02/2014

Scores range from a low of 300 to a high of 850

Key factors that adversely affected your credit score:

- Serious delinquency and public record or collection filed
- Too few accounts currently paid as agreed
- No recent non-mortgage balance information
- Proportion of balances to credit limits is too high on bank revolving or other revolving accounts

If you have any questions regarding your credit score, you should contact Trans Union Consumer Solutions at:

Address: P.O. Box 2000, Chester, PA 19022-2000

Telephone number: 1-800-916-8800

The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the

applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, which can be contacted at:

Federal Trade Commission  
Equal Credit Opportunity  
Washington, DC 20580

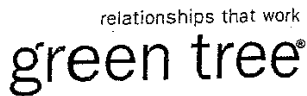
Counseling is available at no charge from HUD-approved counselors through the HOPE Hotline: 1-888-995-HOPE. This housing counseling on-demand service is available 24-hours a day/7-days a week in Spanish and English (other languages available on request). You may also visit <http://www.hud.gov/offices/hsg/sfh/hcc/fc/>.

If you have concerns about the evaluation of your mortgage for foreclosure alternatives, then please contact the Loss Mitigation Response Unit at 1-855-840-8213: Green Tree has designated the following address where mortgage loan customers must send any Qualified Written Request, Notice of Error, or Request for Information: PO Box 6176 Rapid City SD 57709-6176.

Sincerely,

Green Tree  
1-800-643-0202  
Monday - Friday 7 a.m. to 8 p.m., and Saturday 7 a.m. to 1 p.m. CST





KATE N. PALMACCIO  
50 WHITING ST  
LUNENBURG MA 01462-1451

Green Tree Servicing LLC  
P.O. Box 6172  
Rapid City, SD 57709-6172  
GTServicing.com

Date of Notice: January 13, 2015  
Reference: 687957969

**THIS INFORMATIONAL NOTICE IS NOT AN ATTEMPT TO COLLECT A DEBT. IF YOU ARE CURRENTLY IN BANKRUPTCY OR YOUR ACCOUNT WAS DISCHARGED IN BANKRUPTCY WITHOUT A REAFFIRMATION, THE SERVICER IS NOT ATTEMPTING TO COLLECT OR RECOVER THE DEBT AS YOUR PERSONAL LIABILITY.**

Dear KATE N. PALMACCIO:

There is help available if you are having difficulty making your mortgage account payments. You may be eligible for a Foreclosure Prevention Alternative.

### We Are Here to Help You

It is critical that you work with Green Tree Servicing LLC ("Green Tree") on a resolution for any issues that affect your ability to make timely mortgage payments, whether your challenges are temporary or long term. The sooner you respond, the more quickly we can determine whether you qualify for assistance.

### Options May Be Available

The right option for you depends on your individual circumstances. If you provide all required information and documentation about your situation, we can determine if you qualify for temporary or long-term relief, including solutions that may allow you to stay in your home (refinance, repayment, forbearance, account modification) or leave your home while avoiding foreclosure (short sale or deed-in-lieu of foreclosure).

For more details, please see the attachment on Avoiding Foreclosure.

### Send Us the Information We Need to Help You

Requesting help is the first step. Start by providing information and documentation to help us understand the challenges you are facing. To do this, follow the detailed instructions on the attached Homeowner Checklist to complete and submit your Borrower Response Package to us. Once we have received and evaluated your information, we will contact you regarding your options and next steps.

### Learn More and Act Now

For more information, please see the Frequently Asked Questions and other information provided with this letter. If you need assistance, contact our customer support team at 1-877-366-5091.

**Remember, you need to take action by completing and returning the entire Borrower Response Package as soon as possible.**

Sincerely,

Green Tree  
1-877-366-5091  
Monday - Friday 7 a.m. to 8 p.m., and Saturday 7 a.m. to 1 p.m. CST

### TO RECEIVE HELP WITH YOUR MORTGAGE, YOU MUST ACT SOON!

1. See the instructions on the Homeowner Checklist
2. Review:
  - Avoiding Foreclosure
  - Frequently Asked Questions
  - Beware of Foreclosure Rescue Scams
3. Submit required Borrower Response Package:
  - Uniform Borrower Assistance Form (attached)
  - IRS Form 4506-T (attached)
  - Government Monitoring Data Form (attached)
  - Income Documentation (described on Uniform Borrower Assistance Form)
  - Hardship Documentation (described on Uniform Borrower Assistance Form)

**If you need assistance,  
contact us immediately**

**at:  
1-877-366-5091**

Green Tree Servicing LLC  
P.O. Box 6172  
Rapid City, SD 57709-6172

+ 0538455 000004277 096027 - 0926154

KATE N. PALMACCIO  
50 WHITING ST  
LUNENBURG MA 01462-1451



relationships that work

green tree®

Green Tree Servicing LLC  
P.O. Box 6172  
Rapid City, SD 57709-6172

January 14, 2015

KATE N. PALMACCIO  
50 WHITING ST  
LUNENBURG MA 01462-1451

Re: Green Tree Servicing LLC ("Green Tree")  
Account Number: 687957969

**THIS INFORMATIONAL NOTICE IS NOT AN ATTEMPT TO COLLECT A DEBT. IF YOU ARE CURRENTLY IN BANKRUPTCY OR YOUR ACCOUNT WAS DISCHARGED IN BANKRUPTCY WITHOUT A REAFFIRMATION, THE SERVICER IS NOT ATTEMPTING TO COLLECT OR RECOVER THE DEBT AS YOUR PERSONAL LIABILITY.**

Dear KATE N. PALMACCIO:

Thank you for contacting us about your mortgage. You were evaluated for mortgage payment assistance based upon the eligibility requirements of Fannie Mae, the owner of your mortgage account. Based on a careful review of the information you provided to us, you are not eligible for FNMA Home Affordable Modification Program due to the following reason(s):

- You cannot be involved in an account modification and a short sale where an offer has been submitted, accepted, approved and is pending closing, or in a deed-in-lieu where the deed has been executed and the related documents are being finalized.

You were also found to be ineligible for FNMA MOD 24 because of the following reason(s):

- You cannot be involved in an account modification and a short sale where an offer has been submitted, accepted, approved and is pending closing, or in a deed-in-lieu where the deed has been executed and the related documents are being finalized.

You were also found to be ineligible for FNMA Cap & Extend Modification because of the following reason(s):

- You cannot be involved in an account modification and a short sale where an offer has been submitted, accepted, approved and is pending closing, or in a deed-in-lieu where the deed has been executed and the related documents are being finalized.

You were also found to be ineligible for FNMA Standard Modification because of the following reason(s):

- You cannot be involved in an account modification and a short sale where an offer has been submitted, accepted, approved and is pending closing, or in a deed-in-lieu where the deed has been executed and the related documents are being finalized.

You have the right to appeal the determination not to offer you loss mitigation assistance. If you would like to appeal, you must contact us within 30 calendar days from the date of this notice and state you are requesting an appeal of this decision. For appeals requested in writing, you must include your name, property address and mortgage account number. You may also specify the reasons for your appeal and provide any supporting documentation. Your right to appeal expires 30 calendar days from the date of this notice. Any appeal requests or documentation received after that date may not be considered. Please contact us Monday – Friday 8 a.m. to 4 p.m. MST at 1-855-858-3873, or at the below-referenced mailing address and fax number.

Green Tree Servicing LLC  
PO Box 6172  
Mail Stop R299  
Rapid City, SD 57709  
Fax: 1-855-895-4481

If you elect to appeal, we will provide you with a written notice of our appeal decision within 30 calendar days of receiving

January 30, 2015

KATE N PALMACCIO  
50 WHITING ST  
LUNENBURG, MA 01462

Green Tree Servicing LLC  
P.O. BOX 6172  
RAPID CITY, SD 57709-6172

RE: Green Tree Servicing LLC ("Green Tree")  
Account # 68795796\_9

**This information notice is not an attempt to collect a debt. If you are currently in bankruptcy or discharged, this debt in a bankruptcy Green Tree is not attempting to collect or recover the debt as your personal liability.**

Dear KATE N PALMACCIO:

Thank you for contacting us about your mortgage. Based on a careful review of the information you provided, you are conditionally approved for a Mortgage Release/deed-in-lieu of foreclosure. This approval is conditioned upon the following:

- Completion of an interior appraisal and/or broker's price opinion
- Completion of a property inspection
- Receipt of title (and the ability to provide clear and marketable title)

Final approval will occur after we receive and review the aforementioned information and the owner of your mortgage, any subordinate lienholders (if applicable) and the mortgage insurance company (if applicable) have established the terms of the With Mortgage Release™.

**About Mortgage Release™**

With Mortgage Release™, you voluntarily transfer ownership of the property to the owner of your mortgage to satisfy your mortgage debt. If you complete a Mortgage Release on terms that have been approved by us, including any required contribution, benefits to you may include:

- Avoiding foreclosure
- Eliminating your mortgage debt\*
- Consideration for leasing the property from the lender

\* Green Tree is required to report any debt forgiveness to the Internal Revenue Service. This may result in consequences regarding your federal, state or local tax liability. In addition, if you receive public assistance, the forgiveness of debt may affect your eligibility for these benefits. Green Tree cannot provide any advice or guidance regarding possible tax consequences or effect on any public assistance benefits. You may wish to consult with your tax professional about any possible tax consequences and/or your public assistance office regarding other consequences that may result from the forgiveness of debt. If you choose not to proceed with the forgiveness of debt, please contact Green Tree immediately at 1-800-643-0202.

**To Accept This Offer and Suspend Foreclosure**

You must contact us at 1-800-643-0202 or in writing at the address provided below by no later than 02/13/2015, to indicate your intent to accept this offer to pursue a Mortgage Release. If you contact us by 02/13/2015 to indicate

your intent to accept this offer to pursue a Mortgage Release, we will not refer your account to foreclosure, or if your account has been referred to foreclosure, we will suspend the next legal action in the foreclosure proceedings.

However, if you do not respond by 02/13/2015 or if we are unable to complete the Mortgage Release transaction within 60 days of your acceptance, foreclosure proceedings may continue, and a foreclosure sale may occur.

**TIME IS OF THE ESSENCE.**

**Additional Mortgage Release Information:**

- **Title** – Unless you have been approved for and signed a lease or use and occupancy agreement for the property, you and all other occupants must vacate your property and provide clear and marketable title free of any liens and encumbrances with a general warranty deed or local equivalent by 02/13/2015.
- **Subordinate Liens** – You must cooperate with us as necessary to negotiate and obtain the release of any subordinate liens on the property.
- **Property Inspection and Property Condition** – We may need to conduct an interior inspection of the property which will require that you provide access. Unless you have been approved for and signed a lease or use and occupancy agreement for the property, you must leave the property in broom swept condition, free of interior and exterior trash, debris or damage, and all personal belongings must be removed from the property. The yard must be clean and neat and you must deliver all the keys and controls (e.g., garage door openers) to us.
- **Personal Property Release** – You must provide us with a release for any possessions or materials left at or in the property after the date you agree to vacate the property.
- **Deficiency Waiver** – If you act in good faith and in compliance with applicable law in completing the Mortgage Release according to the terms approved by us, including any required contribution, you will be released from liability for any deficiency.
- **Relocation Assistance** – You may be eligible for relocation assistance up to \$10,000.00, which would be paid within 30 days of our acceptance of the executed deed if you comply with the property conditions outlined above.
- **Transfer/Closing** – You may be required to sign standard pre-closing documents as well as attend a closing of the transfer of your property where all owners of the property must be present.

If you have questions about Mortgage Release requirements, please contact us at 1-800-643-0202.

**Next Steps**

- It is important that you thoroughly review the enclosed information carefully as it includes additional information about your responsibilities and provides more information on the Mortgage Release process.
- Contact us at 1-800-643-0202 or in writing at the below-referenced address no later than 02/13/2015 to indicate your intent to pursue this offer.

Green Tree Servicing LLC  
P.O. Box 6172  
Mail Stop R299  
Rapid City, SD 57709

Green Tree has designated the following address where mortgage loan customers must send any Qualified Written Request, Notice of Error or Request for Information: PO Box 6176, Rapid City, SD 57709-6176.

## **WOOTEN: FANNIE MAE WAS THE HIDDEN MORTGAGEE; FORECLOSURE VOID**

The Wooten materials here show repeated evidence that Fannie Mae owned the mortgage loan all along. We can produce similar materials in most cases where Fannie Mae had the mortgage.

Fannie Mae in its seller/servicer agreement, for instance, requires that no one can use Fannie Mae trademarks unless the mortgage is actually held by Fannie Mae.

In the attached documents, Bank of America makes it clear that it is only the servicer even though its name was in the Registry of Deeds as being the mortgagee. The second page shows the 'homesaver' program, a trademark name from Fannie Mae; the third document shows, down in the bottom footer, that this is a Fannie Mae loss mitigation letter; the fourth document shows, explicitly in the last bullet point, the Fannie Mae deed for lease trademark program and mentions Fannie Mae again. The next letter, specifically, at the beginning of the letter, refers to the Fannie Mae modification program, again a trademark program. All of this shows that Fannie Mae, not Bank of America, owned the mortgage loan all along.

Wooten's foreclosure was conducted in the name of the servicer and, therefore, violated fundamental state law; consumers have a right to know who is the real party in interest in the mortgage; the foreclosure must occur in that party's name even if someone else does the leg work. This is grounded in the most fundamental debtor creditor law; debt collection cannot be done without debtor knowing who the real creditor is.

**Bank of America****Home Loans**

P.O. Box 660694  
Dallas, TX 75266-0694

Send Correspondence to:  
P.O. Box 660694  
Dallas, TX 75266-0694

Business Address:  
450 American Street  
Simi Valley, CA 93065-6285

Send Payments to:  
P.O. Box 15222  
Wilmington, DE 19886-5222  
June 8, 2010

Virginia L. Wooten  
1454 MAIN ST  
BROCKTON, MA 02301-7152



Account No.: 147235497  
RE: Premises:  
1454 Main Street  
Brockton, MA 02301

**NOTICE OF INTENTION TO FORECLOSE**

Dear Virginia L. Wooten:

BAC Home Loans Servicing, LP (hereinafter "BAC Home Loans Servicing, LP") services the loan described above on behalf of the holder of the promissory note (the "Noteholder"). The loan is in serious default because the required payments have not been made. The total amount now required to reinstate the loan as of the date of this notice is as follows:

<u>Monthly Charges:</u>	11/01/2009	\$12,791.04
<u>Late Charges:</u>	11/01/2009	\$207.06
<u>Other Charges:</u>	Total Late Charges:	\$29.58
	Uncollected Costs:	\$0.00
	Partial Payment Balance:	<u>(\$1,472.54)</u>
	<b>TOTAL DUE:</b>	<b>\$11,555.14</b>

You have the right to cure the default. To cure the default, on or before July 8, 2010, BAC Home Loans Servicing, LP must receive the amount of \$11,555.14 plus any additional regular monthly payment or payments and late charges which become due on or before July 8, 2010.

The default will not be considered cured unless BAC Home Loans Servicing, LP receives "good funds" in the amount of \$11,555.14 on or before July 8, 2010. If any check (or other payment) is returned to us for insufficient funds or for any other reason, "good funds" will not have been received and the default will not have been cured. No extension of time to cure will be granted due to a returned payment. BAC Home Loans Servicing, LP reserves the right to accept or reject a partial payment of the total amount due without waiving any of its rights herein or otherwise. For example, if less than the full amount that is due is sent to us, we can keep the payment and apply it to the debt but still proceed to foreclosure since the default would not have been cured.

If the default is not cured on or before July 8, 2010, the mortgage payments will be accelerated with the full amount remaining accelerated and becoming due and payable in full, and foreclosure proceedings will be initiated at that time. As such, the failure to cure the default may result in the foreclosure and sale of your property. If your property is foreclosed upon, the Noteholder may pursue a deficiency judgment against you to collect the balance of your loan, if permitted by law.

You may, if required by law or your loan documents, have the right to cure the default after the acceleration of the mortgage payments and prior to the foreclosure sale of your property if all amounts past due are paid within the time permitted by law. However, BAC Home Loans Servicing, LP and the Noteholder shall be entitled to collect all fees and costs incurred by BAC Home Loans Servicing, LP and the Noteholder in pursuing any of their remedies, including but not limited to reasonable attorney's fees, to the full extent permitted by law. Further, you may have the right to bring a court action to assert the non-existence of a default or any other defense you may have to acceleration and foreclosure.

Your loan is in default. Pursuant to your loan documents, BAC Home Loans Servicing, LP may, enter upon and conduct an inspection of your property. The purposes of such an inspection are to (i) observe the physical condition of your property, (ii) verify that the property is occupied and/or (iii) determine the identity of the occupant. If you do not cure the default prior to the inspection, other actions to protect the mortgagee's interest in the property (including, but not limited to, winterization, securing the property, and maintenance services) may be taken. The costs of the above-described inspections and property preservation efforts will be charged to your account as provided in your security instrument.

## HomeSaver PAYMENT FORBEARANCE AGREEMENT

**Investor Loan # 147235497**

Forbearance Agreement Effective Date: 9/01/2009

Borrower ("I")<sup>1</sup>: VIRGINIA WOOTEN

Servicer ("Servicer"): BAC Home Loans Servicing, LP

Date of first lien Security Instrument ("Mortgage") and Note ("Note"): 11/22/2006

Loan Number: 147235497

Property Address ("Property"): 1454 MAIN STREET, BROCKTON, MA 02301

The Mortgage and Note together, as they may previously have been amended, are referred to as the "Loan Documents." Capitalized terms used in this Agreement and not defined herein have the meaning given to them in the Loan Documents.

I understand that after I sign and return two copies of this Agreement to the Servicer, the Servicer will send me a fully executed copy of this Agreement. This Agreement will not take effect unless and until both I and the Servicer sign it and Servicer provides me with a copy of this Agreement with the Servicer's signature.

**1. My Representations.** I certify, represent to Servicer and agree:

- A. I am unable to afford my Mortgage payments and as a result, (i) I am either in default or believe I will be in default under the Loan Documents in the near future, and (ii) I do not have access to sufficient liquid assets to make the scheduled monthly Mortgage payments under my Loan Documents now or in the near future;
- B. The occupancy status of the Property is as indicated below (circle most appropriate option):
  - a. I live in the Property as my principal residence.
  - b. I use the Property as a second home.
  - c. I use the Property as rental property.
  - d. I live in one unit of the Property and rent other units.
- C. I have not sold or otherwise transferred ownership of the Property since I signed the Loan Documents and the Property has not been condemned;
- D. I am providing or already have provided documentation for all income that I receive (except that I understand that I am not required to disclose any child support or alimony that I receive, unless I wish to have such income considered to qualify for this HomeSaver Forbearance.)
- E. All documents and information I have provided to Servicer pursuant to this Agreement, including the documents and information regarding my eligibility for the HomeSaver Forbearance program, are true and correct; and
- F. All borrowers on the Note, except any deceased borrowers, have signed this Agreement.

<sup>1</sup> If there is more than one Borrower or Mortgagor executing this document, each is referred to as "I". For purposes of this document words signifying the singular (such as "I") shall include the plural (such as "we") and vice versa where appropriate.

2. **The Payment Deferral Agreement.** On or before each of the following due dates, I will pay the Servicer the amount set forth below ("Deferral Period Payment").

Deferral Period Payment No.	Deferral Period Payment	Due Date On or Before
1	\$903.76	9/01/2009
2	\$903.76	10/01/2009
3	\$903.76	11/01/2009
4	\$903.76	12/01/2009
5	\$903.76	1/01/2010
6	\$903.76	2/01/2010

During the period (the "Deferral Period") commencing on the date of this Agreement and ending on the earlier of: (i) 6 months from the execution date by Servicer; (ii) execution of an agreement with Servicer for another resolution of my default under my Loan Documents, for example, a modification, pre-foreclosure sale or deed in lieu of foreclosure; or (iii) my default under the terms of this Agreement.

I understand and acknowledge that:

- A. **Foreclosure Activity.** The Servicer will suspend any scheduled foreclosure sale, provided I continue to meet the obligations under this Agreement. If this Agreement terminates, however, then any pending foreclosure action will not be dismissed and may be immediately resumed from the point at which it was suspended, and no new notice of default, notice of intent to accelerate, notice of acceleration, or similar notice will be necessary to continue the foreclosure action, all rights to such notices being hereby waived to the extent permitted by Applicable Law;
- B. **Application of Payments.** The Servicer will hold the payments received during the Deferral Period in a non-interest bearing account until they total an amount that is enough to pay my oldest delinquent monthly payment on my Loan in full. If there is any remaining money after such payment is applied, such remaining funds will be held by the Servicer and not posted to my account until they total an amount that is enough to pay the next oldest delinquent monthly payment in full. Upon termination of this Agreement, if I have not entered into another agreement with Servicer to cure or otherwise resolve my default under the Loan Document or reinstated my Loan in full, the Servicer will have all of the rights and remedies provided by the Loan Documents, and any payment I make under this Agreement and not yet applied to my Loan as described above shall be applied to amounts I owe under the Loan Documents and shall not be refunded to me.
- C. **Additional Assistance.** During the Deferral Period, Servicer will review my Loan to determine whether additional default resolution assistance can be offered to me. At the end of the Deferral Period either (1) I will be required to recommence my regularly scheduled payments and to make additional payment(s), on terms to be determined by Servicer, until all past due amounts owed under the Loan documents have been paid in full, (2) I will be required to reinstate my Loan in full, (3) Servicer will offer to modify my Loan; (4) Servicer will offer me some other form of payment assistance or alternative to foreclosure, on terms to be determined solely by Servicer with the approval of the investors or insurers on my Loan, or (5) if no feasible alternative can be identified, Servicer may commence or continue foreclosure proceedings or exercise other rights and remedies provided Servicer under the Loan Documents.
- D. **No Modification. I understand that the Agreement is not a forgiveness of payments on my Loan or a modification of the Loan Documents.** I further understand and agree that the Servicer is not obligated or bound to make any modification of the Loan Documents or provide any other alternative resolution of my default under the Loan Documents.
- E. **Late Charges.** Unless otherwise expressly prohibited by Applicable Law, late charges will be assessed against me until the Deferred Payments have been paid in full and my Loan is brought completely current under my Loan documents, even if I make timely payments in accordance with this Agreement.



147235497-CHLNCSHSE\_07282009FP



FRB-002

## HARMON LAW OFFICES, P.C.

150 CALIFORNIA STREET  
NEWTON, MASSACHUSETTS 02458  
TEL (617) 558-0500  
FAX (617) 244-7304

*SERVING MASSACHUSETTS, NEW HAMPSHIRE AND RHODE ISLAND*

October 6, 2010

Ms. Virginia L. Wooten  
1454 Main Street  
Brockton, MA 02301

RE: Mortgagor(s): Virginia L. Wooten  
Property: 1454 Main Street Brockton, MA 02301  
Lender/Servicer: BAC Home Loans Servicing, LP - TX

THE FOLLOWING LETTER IS A DISCUSSION OF ALTERNATIVES TO FORECLOSURE. IT IS OUR UNDERSTANDING THAT YOU ARE NOT CURRENTLY IN BANKRUPTCY. IF YOU ARE IN BANKRUPTCY, THEN PLEASE DISREGARD THIS LETTER IN ITS ENTIRETY AND HAVE YOUR ATTORNEY CONTACT OUR OFFICE AS SOON AS POSSIBLE.

Dear Sir or Madam:

We are writing you to let you know that you may be eligible for certain opportunities to avoid foreclosure. You may have had an unexpected expense or a circumstance beyond your control which forced you to miss mortgage payments. If this is the case, our client would like to discuss your situation with you and determine what alternatives may be available. These alternatives are voluntary and could include:

- **Forbearance Plan:** An agreement to temporarily let you pay less than the full amount of your mortgage payment, or pay nothing at all, during the forbearance period. Your lender may consider a forbearance when you can show that funds from a bonus, tax refund, or other source of future income will let you bring the mortgage current or qualify you for a repayment plan or loan modification at the end of the forbearance period.
- **Reinstatement of Your Loan:** You would pay the total amount past due in one lump sum by a specified date.
- **Repayment Plan:** An agreement that gives you a fixed amount of time to repay the amount you are behind by combining a portion of what is past due with your regular mortgage payment. At the end of the repayment period you will have gradually paid back the amount of your mortgage that was delinquent.
- **Modification:** This is a written agreement between you and the lender that permanently changes the terms of the loan that in some instances may make your payments more affordable. Common loan modifications may include:
  1. Adding missed payments to your existing loan balance
  2. Making an adjustable-rate mortgage into a fixed-rate mortgage
  3. Extending the number of years you have to pay to a longer term

- **HomeSaver Advance:** This is an unsecured, personal loan that will enable you to cure the payment default under a Fannie Mae mortgage loan that Fannie Mae owns or has securitized.

If you cannot or do not want to keep your home, your lender can work with you to avoid foreclosure. This can help reduce the negative effect on your credit reputation. There are several different ways this might occur depending on your financial circumstances:

- **Deed in Lieu of Foreclosure:** Under certain circumstances, you would voluntarily transfer ownership of your property to the lender in exchange for cancellation of your mortgage debt or a substantial reduction of the debt. In most cases, you must attempt to sell your home for its fair market value for at least 90 days. You would be given a specific period of time to relocate. This option may not be available to you if there are other liens or judgments on your home.
- **Short Payoff:** If you can sell your house but the sales proceeds are less than the total amount you owe on your mortgage, your lender may agree to a short payoff.

If you want to take advantage of these potential alternatives, please complete the enclosed financial worksheet and return it to our office via fax at (617) 243-4055, or mail it to:

Harmon Law Offices, P.C.  
P.O. Box 610389  
Newton, MA 02461-0389  
Attn: Loss Mitigation Team

In the alternative, call our Loss Mitigation Team at (617) 558-6144 to verbally submit the information. Once all of your financial information is received, we will notify your lender, who may require that you complete additional financial forms. After your lender has received the required information, your lender will evaluate the possible alternatives.

The foreclosure action will continue whether or not the worksheet is completed and returned. The foreclosure action will continue unless your lender determines that you are eligible for one of these alternatives and an agreement is signed.

This firm represents the mortgage lender in the foreclosure action. Therefore, you should seek competent legal counsel who will act in your best interest. This firm does not represent you and should not be construed as such.

We hope that you will complete the enclosed worksheet so that our client can work with you to consider alternatives to the pending foreclosure of your property. If you have any questions, please call us at (617) 558-6144.

Sincerely,

Harmon Law Offices, P.C.  
Enclosure

**THIS OFFICE IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT.  
ANY INFORMATION WE OBTAIN WILL BE USED FOR THAT PURPOSE**

April 23, 2011

BAC Home Loans Servicing LP  
5401 N Beach St  
TX2-977-01-34  
Fort Worth, TX 76137

VIRGINIA L. WOOTEN  
1454 MAIN STREET  
BROCKTON, MA 02301

Loan Number: 147235497

Dear VIRGINIA L. WOOTEN:

We have reviewed your request for a loan modification under the federal government's Home Affordable Modification Program. Unfortunately, your loan is not eligible for the Home Affordable Modification Program for the reason stated below.

We are currently reviewing your financial information to determine if there are other options available to you. These options may include:

- A different modification program that may help you achieve more affordable payments;
- A forbearance program. With this program you could receive lower payments or no payments for a limited number of months to either give you time to resolve your financial difficulties or give us time to work together with you on a more permanent solution;
- A Short Sale. With this program, you agree to sell your home at fair market value and settle your mortgage debt for less than the amount you owe.
- A Deed in Lieu of Foreclosure. With this program, you can avoid the public auction of your home by voluntarily transferring the title or ownership of your property to satisfy your mortgage debt.
- The Fannie Mae Deed-for-Lease™ program. With this program, you agree to a deed in lieu of foreclosure and transfer the title of your property to Fannie Mae instead of paying your mortgage debt, even if the value of the property is less than the outstanding balance on your mortgage. You then lease the property back from Fannie Mae at a current rental rate.

Once we have finished reviewing your information, we will contact you within 10 days to let you know what other options are available to you and the next steps you need to take. Please contact us at 1.888.325.5399 if you have questions about these options.

**Reason your loan was not eligible for the Home Affordable Modification Program**

Under the guidelines of the Home Affordable Modification Program:

You are not eligible for a Home Affordable Modification because you did not make all of the required Trial Period Plan payments by the end of the trial period.

According to the guidelines of the Home Affordable Program, you have 30 days to appeal the decision that your

You're on your way toward an  
affordable mortgage payment.

To accept our offer, make your first  
trial period payment today.

VIRGINIA L. WOOTEN  
1454 Main St  
Brockton, MA 02301

Loan Number: 147235497

June 10, 2011

Dear VIRGINIA L. WOOTEN:

We are pleased to tell you that **you are approved to enter into a trial period plan under the Fannie Mae Modification Program**. This is the next step toward qualifying for affordable and sustainable mortgage payments. Please read this letter so that you understand all the steps you need to take to permanently modify your mortgage, starting with your first trial period payment.

**What you need to do**

To accept this offer you must make new monthly Trial Period Plan payments in place of your normal monthly mortgage payments. Each payment must be made in the exact amount of your Trial Period Plan payment. **Send in your monthly Trial Period Plan payments — instead of your normal monthly mortgage payments — as follows:**

1st payment: \$985.00	by 07/01/11
2nd payment: \$985.00	by 08/01/11
3rd payment: \$985.00	by 09/01/11.


Payment coupons are included in this package if you wish to send your payment in the mail, or you can call us at 1.800.669.0102 and we can deduct your payment directly from your checking account. (There are no fees to make your payment by phone during the trial period.)

After all trial period payments are timely made, your mortgage will be permanently modified. (Your existing loan and loan requirements remain in effect and unchanged during the trial period.) **If each payment is not received in the month in which it is due, you will no longer be eligible for a Fannie Mae loan modification and your loan will not be modified.** If your last trial period payment is made in the last half of the month it is due, we may elect to extend your Trial Period Plan by an extra month.

If you have any questions, if you cannot afford the trial period payments shown above or if you have decided to leave your home but still want to avoid foreclosure, please call us at 1.800.669.6607 between 8 a.m. - 10 p.m. Eastern, Monday through Friday as we may be able to help you. Also, please review the attached Frequently Asked Questions.

We are glad you have been accepted into a trial period plan with the Fannie Mae Modification Program. Start it today by making your first trial period payment.

Home Loan Team  
BAC Home Loans Servicing, LP

Bank of America  Home Loans

Enclosures: (1) Frequently Asked Questions (2) Additional Trial Period Plan Information and Legal Notices (3) Payment Coupons

BAC Home Loans Servicing, LP is required by law to inform you that this communication is from a debt collector. However, the purpose of this communication is to let you know about your potential eligibility for a loan modification program that may help you bring or keep your loan current through more affordable payments.

Mortgages funded and administered by an Equal Housing Lender.  
Protect your personal information before recycling this document.

## 12. Securitized Trusts

Securitized trusts shown to own about 30% of U.S. mortgages. Overwhelmingly, these trusts never owned mortgages given claimed mortgages were barred by the Trust's founding documents from being legally conveyed into them. However, presumably, they have "affected" about 30% of foreclosures.

### **Trustees Have No Independent Right of Action**

- b. Montgomery: U.S. Bank letter – as trustee, it has no authority re foreclosure – only servicer does.

## SECURITIZED TRUSTS – ANY ‘INDEPENDENT ACT BY TRUSTEES VOID

Most importantly, the securitized trusts are bound by the federal law governing Real Estate Mortgage Investment Conduits (REMIC). Not only must they legally come into existence with a properly executed founding document, but attached here is the Montgomery letter from U.S. Bank’s trustee division acknowledging in the last full paragraph: “Your account is governed by your loan documents and the trusts governing document,” and admitting at the end of the second paragraph **“The trustee has no authority and no responsibility to review or approve or disapprove the decisions and actions of their servicer, please note the trust is the owner of your mortgage and note, not the trustee.”** Bold font supplied. So, this letter comports with the REMIC law and the requirements of REMIC law and lays out with absolute clarity, in compliance with the Pooling and Service Agreement, the powers, or rather lack of independent one, of the trustee of a securitized Trust.

The Massachusetts Supreme Judicial Court, the first top court in the US confronted by the *ultra vires* actions of Securitized REMIC Trusts found the Trusts’ founding documents, the Pooling and Servicing Agreements, controlling. But the Massachusetts Appeals Court and the lower courts, more often than not ignore the controlling nature of the founding document for these ‘legal entities’; the controlling nature of the REMIC requirements; and the reality that no one is authorized under REMIC law, under the Pooling and Servicing Agreement (PSA), or as correctly expressed in this US Bank Trustee division letter to ratify ultra-vires acts by a trustee in violation of the PSA. The Trustees of these securitized trusts have, at best, a mechanistic role, completely controlled by the explicit language of the PSA.



EP-MN-WS3D  
60 Livingston Avenue  
Saint Paul, MN 55107

January 21, 2016

Janet Montgomery  
29 Meadow Lane  
Grafton, MA 01536

Re: 29 Meadow Lane, Grafton, MA 01536

Dear Ms. Montgomery:

I am writing in response to your "Notice of Right to Cancel" dated January 6, 2016 that was sent to U.S. Bank. I have been asked to address your concerns on behalf of U.S. Bank and appreciate the opportunity to do so.

We have researched the above referenced address and have determined that U.S. Bank is merely the trustee for the Trust that owns the mortgage and note on this property. Please note the Trust is the owner of your mortgage and note, not the trustee. The servicer is the party to the Trust that has the authority and responsibility to make decisions and take action regarding individual mortgage loans in the Trust. The trustee has no authority or responsibility to review and or approve or disapprove of these decisions and actions. It is the servicer who has taken all action regarding your property, and is the proper party to address your concerns.

As we are not able to address your concerns, you need to work with Wells Fargo as the servicer for this property. We forwarded your correspondence to Wells Fargo, and requested they respond to you. Wells Fargo has responded and stated **Mr. Roger Anderson** is their representative with whom you can discuss your specific concerns. **Mr. Anderson** can be reached at (800-853-8516, extension 1335621049).

We disagree with your legal assertions and do not acknowledge your correspondence as satisfaction or settlement of the debt owed, nor do we acknowledge that your correspondence has any legal significance or that it forms the basis for any contract or agreement. Your account is governed by your loan documents and the Trust's governing documents. The statements contained within your correspondence in no way alter or change the nature or terms of your loan documents and your contractual obligation to repay the balance owed on the account in full is neither discharged nor forgiven.

Ms. Montgomery, we regret that we are unable to be of further direct assistance to you regarding this matter. Please contact Wells Fargo using the information provided in this letter so that they may assist you in a more timely and efficient manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Bengtson". The signature is stylized with a large, sweeping "M" and a long, horizontal stroke extending to the right.

Michael D. Bengtson  
Mortgage Research  
Specialized MBS Services  
60 Livingston Ave (EP-MN-WS3D)  
St Paul, MN 55107  
[michael.bengtson@usbank.com](mailto:michael.bengtson@usbank.com)

## 13. Securitized Trusts Not Legally Existent: Unexecuted Founding Documents

- a. Astley: Bank Of NY-SWABS Asset Backed Certificate Series 2004-11
- b. Cordiero: US Bank RASC Pass-Through Certificate Series 2006-KS9
- c. Federico: HSI Deutsche Bank Trust Series 2006-WMC1
- d. Marks: Bear Stearns US Bank Trust Series 2005-AC2
- e. Sanchez: Deutsche Option One Trust
- f. Schumacher: typed/blank notarization: Bear Stearns Trust 2004-AC4

In order to come into legal existence, a Securitized Trust's founding document, known as a Pooling and Servicing Agreement (PSA), must have been fully executed. Otherwise, the Trust, like any non-person legal entity, has no legal existence. A PSA generally runs 200-300 pages. Attached here are a front page and 'signature' pages with the spaces for notarized signatures of those authorized to create the Trust

Inspection of supposed PSA signature and notary pages demonstrates, however, that these Pooling and Servicing Agreements have been executed at best about half the time in MAAPL's experience. Supposed Securitized Trusts with unexecuted founding document cannot own mortgages or hold Notes. Examples of unexecuted PSAs:

- Astley case: Bank Of New York CWABS Trust totally omitted even the names of those who should have been the signatories, and again the same is true for the notarizations on that.
- Cordeiro case: U.S. Bank RASC Trust does put the names in but does them as a /s/, and there are no electronic signatures here. In fact the dates of the supposed signatures are not even entered in the /s/ of any purported notary, further, the notary pages here do not reflect the physical addresses of the entities for which they claim to notarize.
- Federico case: The Deutsche HSI Trust also does not bother to even identify the names of intended signatories except in one case. The notarization pages are similarly blank.
- Schumacher case: the purported U.S. Bank Trustee Bear Stearns' Trust literally has not even the names of the parties that are supposed to be the authorized signatories of each of the entities therein named and therefore, there was not even an attempt to execute.

CWABS, INC.,  
Depositor

COUNTRYWIDE HOME LOANS, INC.,  
Seller

COUNTRYWIDE LFT LLC,  
Seller

COUNTRYWIDE HOME LOANS SERVICING LP,  
Master Servicer

THE BANK OF NEW YORK,  
Trustee

and

BNY WESTERN TRUST COMPANY,  
Co-Trustee

-----  
POOLING AND SERVICING AGREEMENT

Dated as of October 1, 2004

-----  
ASSET-BACKED CERTIFICATES, SERIES 2004-11

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DEFINITIONS

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ARTICLE II.  
CONVEYANCE OF MORTGAGE LOANS; REPRESENTATIONS AND WARRANTIES

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto by their respective officers thereunto duly authorized as of the day and year first above written.

CWABS, INC.,  
as Depositor

By: \_\_\_\_\_

Name:  
Title:

COUNTRYWIDE HOME LOANS, INC.,  
as Seller

By: \_\_\_\_\_

Name:  
Title:

COUNTRYWIDE LFT LLC,  
as Seller

By: \_\_\_\_\_

Name:  
Title:

COUNTRYWIDE HOME LOANS SERVICING LP,  
as Master Servicer

By: COUNTRYWIDE GP, INC.

By: \_\_\_\_\_

Name:  
Title:

<PAGE>

THE BANK OF NEW YORK,  
as Trustee

By: \_\_\_\_\_

Name:  
Title:

BNY WESTERN TRUST COMPANY,  
as Co-Trustee

By: \_\_\_\_\_

Name:  
Title:

THE BANK OF NEW YORK  
(solely with respect to its  
obligations under Section 4.01(d))

By: \_\_\_\_\_

Name:  
Title:

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STATE OF            )  
                      ) ss.:  
COUNTY OF         )

On this 29th day of \_\_\_\_\_, \_\_\_\_\_, before me, a notary public  
in and for said State, appeared \_\_\_\_\_, personally known to me on  
the basis of satisfactory evidence to be a \_\_\_\_\_ of  
Countrywide Home Loans, Inc., one of the corporations that executed the within  
instrument, and also known to me to be the person who executed it on behalf of  
such corporation and acknowledged to me that such corporation executed the  
within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my  
official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF            )

COUNTY OF )  
                  ) ss.:  
                  )

On this 29th day of \_\_\_\_\_, before me, a notary public in and for said State, appeared \_\_\_\_\_, personally known to me on the basis of satisfactory evidence to be a \_\_\_\_\_ of Countrywide GP, Inc., the parent company of Countrywide Home Loans Servicing LP, one of the organizations that executed the within instrument, and also known to me to be the person who executed it on behalf of such limited partnership and acknowledged to me that such limited partnership executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF )  
                  ) ss.:  
COUNTY OF )

On this 29th day of \_\_\_\_\_, before me, a notary public in and for said State, appeared \_\_\_\_\_, personally known to me on the basis of satisfactory evidence to be a \_\_\_\_\_ of CWABS, Inc., one of the corporations that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF )  
                  ) ss.:  
COUNTY OF )

On this 29th day of \_\_\_\_\_, before me, a notary public in and for said State, appeared \_\_\_\_\_, personally known to me on the basis of satisfactory evidence to be a \_\_\_\_\_ of Countrywide LFT LLC, one of the corporations that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation and

acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF            )  
                      ) ss.:  
COUNTY OF         )

On this 29th day of \_\_\_\_\_ before me, a notary public in and for said State, appeared \_\_\_\_\_ personally known to me on the basis of satisfactory evidence to be a \_\_\_\_\_ of The Bank of New York, a New York banking corporation that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation, and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF            )  
                      ) ss.:  
COUNTY OF         )

On this 29th day of \_\_\_\_\_ before me, a notary public in and for said State, appeared \_\_\_\_\_, personally known to me on the basis of satisfactory evidence to be a \_\_\_\_\_ of BNY Western Trust Company, one of the corporations that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF                    )  
                              )    ss.:  
COUNTY OF                 )

On this 29th day of \_\_\_\_\_ before me, a notary public in and for said State, appeared \_\_\_\_\_, personally known to me on the basis of satisfactory evidence to be a \_\_\_\_\_ of The Bank of New York, a New York banking corporation that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation, and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

Exhibit A-1  
through A-13

[Exhibits A-1 through A-13 are  
photocopies of such Certificates as delivered.]

[See appropriate documents delivered at closing.]

A-1

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Exhibit B

Exhibit B is a photocopy  
of the Class P Certificates  
as delivered.

[See appropriate documents delivered at closing.]

EXECUTION COPY

RESIDENTIAL ASSET SECURITIES CORPORATION,

Depositor,

RESIDENTIAL FUNDING COMPANY, LLC,

Master Servicer,

and

U.S. BANK NATIONAL ASSOCIATION

Trustee

POOLING AND SERVICING AGREEMENT

Dated as of October 27, 2006

Home Equity Mortgage Asset-Backed Pass-Through Certificates

Series 2006-KS9

---

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fees and expenses and related costs, judgments, and any other costs, fees and expenses that any of them may sustain arising out of or based upon (i) any untrue statement of a material fact contained or alleged to be contained in any information provided under this Agreement by or on behalf of the Depositor or Master Servicer for inclusion in any report filed with Commission under the Exchange Act (collectively, the "RFC Information"), or (ii) the omission or alleged omission to state in the RFC Information a material fact required to be stated in the RFC Information or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, by way of clarification, that clause (ii) of this paragraph shall be construed solely by reference to the RFC Information and not to any other information communicated in connection with a sale or purchase of securities, without regard to whether the RFC Information or any portion thereof is presented together with or separately from such other information.

---

IN WITNESS WHEREOF, the Depositor, the Master Servicer and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized as of the day and year first above written.

RESIDENTIAL ASSET SECURITIES CORPORATION

By: /s/Tim Jacobson

Name: Tim Jacobson

Title: Vice President

RESIDENTIAL FUNDING COMPANY, LLC

By: /s/Joseph Orning

Name: Joseph Orning

Title: Associate

U.S. BANK NATIONAL ASSOCIATION

as Trustee

By: /s/Tamara Shultz-Fugh

Name: Tamara Shultz-Fugh

Title: Vice President

---

STATE OF MINNESOTA

) ss.:

COUNTY OF HENNEPIN

)

On the \_\_\_\_ day of October 2006 before me, a notary public in and for said State, personally appeared Tim Jacobson known to me to be a Vice President of Residential Asset Securities Corporation, one of the corporations that executed the within instrument, and also known to me to be the person who executed it on behalf of said corporation, and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public  
/s/Amy Sue Olson

[Notarial Seal]

---

STATE OF MINNESOTA

) ss.:

COUNTY OF HENNEPIN

)

On the \_\_\_\_ day of October 2006 before me, a notary public in and for said State, personally appeared Joseph Orning, known to me to be an Associate of Residential Funding Company, LLC, a limited liability company that executed the within instrument, and also known to me to be the person who executed it on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public  
/s/Amy Sue Olson

[Notarial Seal]

STATE OF MINNESOTA

COUNTY OF HENNEPIN ) ss.:  
)

On the \_\_\_\_ day of October 2006 before me, a notary public in and for said State, personally appeared Tamara Shultz-Fugh, known to me to be a Vice President of U.S. Bank National Association, a banking association organized under the laws of the United States that executed the within instrument, and also known to me to be the person who executed it on behalf of said banking corporation and acknowledged to me that such banking corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public  
/s/Trisha L. Willett

[Notarial Seal]

EXHIBIT A

FORM OF CLASS A-[ ] CERTIFICATE

SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES, THIS CERTIFICATE IS A "REGULAR INTEREST" IN A "REAL ESTATE MORTGAGE INVESTMENT CONDUIT," AS THOSE TERMS ARE DEFINED, RESPECTIVELY, IN SECTIONS 860G AND 860D OF THE INTERNAL REVENUE CODE OF 1986 COUPLED WITH THE RIGHT TO RECEIVE PAYMENTS UNDER THE SWAP AGREEMENT.

THE CERTIFICATE PRINCIPAL BALANCE OF THIS CERTIFICATE WILL BE DECREASED BY THE PRINCIPAL PAYMENTS HEREON AND REALIZED LOSSES ALLOCABLE HERETO. ACCORDINGLY, FOLLOWING THE INITIAL ISSUANCE OF THE CERTIFICATES, THE CERTIFICATE PRINCIPAL BALANCE OF THIS CERTIFICATE WILL BE DIFFERENT FROM THE DENOMINATION SHOWN BELOW. ANYONE ACQUIRING THIS CERTIFICATE MAY ASCERTAIN ITS CERTIFICATE PRINCIPAL BALANCE BY INQUIRY OF THE TRUSTEE NAMED HEREIN.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE TRUSTEE OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

ANY TRANSFEREE OF THIS CERTIFICATE WILL BE DEEMED TO HAVE REPRESENTED THAT AS OF ANY DATE PRIOR TO THE TERMINATION OF THE SWAP AGREEMENT, EITHER IT IS NOT A PLAN INVESTOR OR AT LEAST ONE OF U.S. DEPARTMENT OF LABOR PROHIBITED TRANSACTION CLASS EXEMPTIONS 84-14, 90-1, 91-36, 95-60, 96-23 OR OTHER APPLICABLE EXEMPTION APPLIES TO SUCH HOLDER'S RIGHT TO RECEIVE PAYMENTS FROM THE SUPPLEMENTAL INTEREST TRUST.

IF THIS CERTIFICATE (OR ANY INTEREST THEREIN) IS ACQUIRED OR HELD BY ANY PERSON THAT DOES NOT SATISFY THE CONDITIONS DESCRIBED IN THE PRECEDING PARAGRAPH, THEN THE LAST PRECEDING TRANSFEREE THAT SATISFIES SUCH CONDITIONS SHALL BE RESTORED, TO THE EXTENT PERMITTED BY LAW, TO ALL RIGHTS AND OBLIGATIONS AS CERTIFICATE OWNER THEREOF RETROACTIVE TO THE DATE OF SUCH TRANSFER OF THIS CERTIFICATE. THE TRUSTEE SHALL BE UNDER NO LIABILITY TO ANY PERSON FOR MAKING ANY PAYMENTS DUE ON THIS CERTIFICATE TO SUCH PRECEDING TRANSFEREE.

ANY PURPORTED CERTIFICATE OWNER WHOSE ACQUISITION OR HOLDING OF THIS CERTIFICATE (OR INTEREST THEREIN) WAS EFFECTED IN VIOLATION OF THE RESTRICTIONS IN SECTION 5.02(E) OF THE POOLING AND SERVICING AGREEMENT SHALL INDEMNIFY AND HOLD HARMLESS THE DEPOSITOR, THE TRUSTEE, THE MASTER SERVICER, ANY SUBSERVICER, AND THE TRUST FUND FROM AND AGAINST ANY AND ALL LIABILITIES, CLAIMS, COSTS OR EXPENSES INCURRED BY SUCH PARTIES AS A RESULT OF SUCH ACQUISITION OR HOLDING.

CUSIP: \_\_\_\_\_  
Date of Pooling and Servicing Agreement  
and Cut-off Date: October 27, 2006  
First Distribution Date: November 27,  
2006

Master Servicer:  
Residential Funding Company, LLC

Certificate No. A-[ ]-\_\_\_\_  
[Adjustable Pass-Through Rate]

Aggregate Initial Certificate Principal  
Balance of the Class A-[ ]  
Certificates:

\$ \_\_\_\_\_  
Initial Certificate Principal Balance  
of this Class A-[ ] Certificate:  
\$ \_\_\_\_\_

---

HSI ASSET SECURITIZATION CORPORATION,  
Depositor,

WMC MORTGAGE CORP.,  
Originator,

WELLS FARGO BANK, N.A.,  
Servicer, Master Servicer, Securities Administrator and Custodian,

DEUTSCHE BANK NATIONAL TRUST COMPANY,  
Trustee

and

CLAYTON FIXED INCOME SERVICES INC.,  
Credit Risk Manager

POOLING AND SERVICING AGREEMENT

Dated as of July 1, 2006

HSI ASSET SECURITIZATION CORPORATION TRUST 2006-WMC1

MORTGAGE PASS-THROUGH CERTIFICATES,  
SERIES 2006-WMC1

IN WITNESS WHEREOF, each of the parties below have caused their names to be signed hereto by their respective officers thereunto duly authorized as of the day and year first above written.

HSI ASSET SECURITIZATION  
CORPORATION, as Depositor

By: \_\_\_\_\_  
Name: Andrea Lenox  
Title: Vice President

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, solely as Trustee and not in its  
individual capacity

By: \_\_\_\_\_  
Name:  
Title:

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, solely as Trustee and not in its  
individual capacity

By: \_\_\_\_\_  
Name:  
Title:

WELLS FARGO BANK, N.A., as Master  
Servicer

By: \_\_\_\_\_  
Name:  
Title:

WELLS FARGO BANK, N.A., as Securities  
Administrator

By: \_\_\_\_\_  
Name:  
Title:

WELLS FARGO BANK, N.A., as Custodian

By: \_\_\_\_\_  
Name:  
Title:

WELLS FARGO BANK, N.A., as Servicer

By: \_\_\_\_\_  
Name:  
Title:

CLAYTON FIXED INCOME SERVICES  
INC., as Credit Risk Manager

By: \_\_\_\_\_  
Name:  
Title:

WMC MORTGAGE CORP., as Originator, ,  
solely for the purposes of Sections 2.01,  
2.02, 2.03, 8.11(j) and 12.01

By: \_\_\_\_\_  
Name:  
Title:

ACKNOWLEDGED BY HSBC BANK USA,  
NATIONAL ASSOCIATION,  
as Sponsor, solely for the purposes of  
Section 2.03(k).

By: \_\_\_\_\_  
Name: Jon E. Voigtman  
Title: Managing Director #14311

EX-4.1 2 d381974\_ex4-1.htm POOLING AND SERVICING AGREEMENT

---

FINANCIAL ASSET SECURITIES CORP.,  
Depositor

OPTION ONE MORTGAGE CORPORATION  
Servicer

AND

DEUTSCHE BANK NATIONAL TRUST COMPANY,  
Trustee

POOLING AND SERVICING AGREEMENT

Dated as of September 1, 2005

---

Soundview Home Loan Trust 2005-OPT3

Asset-Backed Certificates, Series 2005-OPT3

---

---

IN WITNESS WHEREOF, the Depositor, the Servicer and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized, all as of the day and year first above written.

FINANCIAL ASSET SECURITIES CORP.,  
as Depositor

By: /s/ Vinu Phillips  
Name: Vinu Phillips  
Title: Senior Vice President

OPTION ONE MORTGAGE CORPORATION.,  
as Servicer

By: /s/ Charles R. Fulton  
Name: Charles R. Fulton  
Title: Vice President

DEUTSCHE BANK NATIONAL TRUST COMPANY,  
as Trustee

By: /s/ Hang Luu  
Name: Hang Luu  
Title: Authorized Signer

By: /s/ Ronaldo Reyes  
Name: Ronaldo Reyes  
Title: Vice President

---

STATE OF CONNECTICUT     )  
  ) ss.:  
COUNTY OF                     )

On the \_\_\_\_ day of September, 2005 before me, a notary public in and for said State, personally appeared \_\_\_\_\_ known to me to be a \_\_\_\_\_ of Financial Asset Securities Corp., a Delaware corporation that executed the within instrument, and also known to me to be the person who executed it on behalf of said corporation, and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

On the \_\_\_\_ day of September, 2005 before me, a notary public in and for said State, personally appeared \_\_\_\_\_ known to me to be a \_\_\_\_\_ of Option One Mortgage Corporation, a corporation that executed the within instrument, and also known to me to be the person who executed it on behalf of said corporation, and acknowledged to me that such corporation executed the within instrument.

\_\_\_\_\_

STATE OF CALIFORNIA     )  
                                  ) ss.:  
COUNTY OF ORANGE     )

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_

STATE OF CALIFORNIA     )  
                                  ) ss.:  
COUNTY OF ORANGE     )

On the \_\_\_\_ day of September, 2005 before me, a notary public in and for said State, personally appeared \_\_\_\_\_, known to me to be a(n) \_\_\_\_\_ and \_\_\_\_\_, known to me to be a(n) \_\_\_\_\_ of Deutsche Bank National Trust Company, one of the entities that executed the within instrument, and also known to me to be the person who executed it on behalf of said association, and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

7/18/2017

<https://www.sec.gov/Archives/edgar/data/1322362/000088237705000830/d319993.txt>

<DOCUMENT>  
<TYPE>EX-4.1  
<SEQUENCE>2  
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<DESCRIPTION>POOLING AND SERVICING AGREEMENT  
<TEXT>

BEAR STEARNS ASSET BACKED SECURITIES I LLC,  
Depositor  
EMC MORTGAGE CORPORATION,  
Seller and Company  
WELLS FARGO BANK, NATIONAL ASSOCIATION,  
Master Servicer and Securities Administrator  
and  
U.S. BANK NATIONAL ASSOCIATION,  
Trustee

-----  
POOLING AND SERVICING AGREEMENT

Dated as of March 1, 2005  
-----

BEAR STEARNS ASSET BACKED SECURITIES I TRUST 2005-AC2  
ASSET-BACKED CERTIFICATES, SERIES 2005-AC2

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<CAPTION>

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#### DEFINITIONS

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<C>	
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### ARTICLE II

Section 2.01	CONVEYANCE OF TRUST FUND REPRESENTATIONS AND WARRANTIES Conveyance of Trust
--------------	--

7/18/2017

<https://www.sec.gov/Archives/edgar/data/1322362/000088237705000830/d319993.txt>

reason whatsoever, and that the Certificates, upon due authentication thereof by the Trustee pursuant to this Agreement, are and shall be deemed fully paid.

\* \* \*

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<PAGE>

IN WITNESS WHEREOF, the Depositor, the Master Servicer, the Seller, the Company, the Securities Administrator and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized as of the day and year first above written.

BEAR STEARNS ASSET BACKED  
SECURITIES I LLC,  
as Depositor

By: /s/ Baron Silverstein

-----  
Name: Baron Silverstein  
Title: Vice President

EMC MORTGAGE CORPORATION,  
as Seller and Company

By: /s/ Dana Dillard

-----  
Name: Dana Dillard  
Title: Senior Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Securities Administrator and  
Master Servicer

By: /s/ Darron C. Woodus

-----  
Name: Darron C. Woodus  
Title: Assistant Vice President

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Vaneta I. Bernard

-----  
Name: Vaneta I. Bernard  
Title: Vice President

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<PAGE>

STATE OF NEW YORK                    )  
                                      ) ss.:  
COUNTY OF NEW YORK                 )

On this 31st day of March, 2005, before me, a notary public in and for said State, appeared Baron Silverstein, personally known to me on the

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal]

<PAGE>

On this 31st day of March, 2005, before me, a notary public in and for said State, appeared Darron C. Woodus, personally known to me on the basis of satisfactory evidence to be an authorized representative of Wells Fargo Bank, National Association that executed the within instrument, and also known to me to be the person who executed it on behalf of such national banking association, and acknowledged to me that such national banking association executed the within instrument.

[Notarial Seal]

<PAGE>

On this 31st day of March, 2005, before me, a notary public in and for said State, appeared \_\_\_\_\_, personally known to me on the basis of satisfactory evidence to be an authorized representative of EMC Mortgage Corporation, one of the corporations that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation and acknowledged to me that such corporation executed the within instrument.

Notary Public

[Notarial Seal]

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&lt;PAGE&gt;

STATE OF MASSACHUSETTS                    )  
   ) ss.:  
 COUNTY OF SUFFOLK                        )

On this 31st day of March, 2005, before me, a notary public in and for said State, appeared Vaneta I. Bernard, personally known to me on the basis of satisfactory evidence to be an authorized representative of U.S. Bank National Association that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation, and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
 Notary Public

[Notarial Seal]

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## EXHIBIT A-1

## Form of Class A Certificates

SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES, THIS CERTIFICATE IS A "REGULAR INTEREST" IN A "REAL ESTATE MORTGAGE INVESTMENT CONDUIT," AS THOSE TERMS ARE DEFINED, RESPECTIVELY, IN SECTIONS 860G AND 860D OF THE INTERNAL REVENUE CODE OF 1986 (THE "CODE").

THE CERTIFICATE PRINCIPAL BALANCE OF THIS CERTIFICATE WILL BE DECREASED BY THE PRINCIPAL PAYMENTS HEREON. ACCORDINGLY, FOLLOWING THE INITIAL ISSUANCE OF THE CERTIFICATES, THE CERTIFICATE PRINCIPAL BALANCE OF THIS CERTIFICATE WILL BE DIFFERENT FROM THE DENOMINATION SHOWN BELOW. ANYONE ACQUIRING THIS CERTIFICATE MAY ASCERTAIN ITS CERTIFICATE PRINCIPAL BALANCE BY INQUIRY OF THE TRUSTEE NAMED HEREIN.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE DEPOSITOR OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY AND ANY PAYMENT IS MADE TO CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

A-1-1

&lt;PAGE&gt;

7/18/2017

<https://www.sec.gov/Archives/edgar/data/1299308/000088237704001655/d252871.txt>

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BEAR STEARNS ASSET BACKED SECURITIES I LLC,

Depositor

EMC MORTGAGE CORPORATION,

Seller and Company

WELLS FARGO BANK, NATIONAL ASSOCIATION,

Master Servicer and Securities Administrator

and

U.S. BANK NATIONAL ASSOCIATION,

Trustee  
-----

POOLING AND SERVICING AGREEMENT

Dated as of July 1, 2004  
-----

BEAR STEARNS ASSET BACKED SECURITIES I TRUST 2004-AC4

ASSET-BACKED CERTIFICATES, SERIES 2004-AC4

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### ARTICLE I

#### DEFINITIONS

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&lt;PAGE&gt;

IN WITNESS WHEREOF, the Depositor, the Master Servicer, the Seller, the Company, the Securities Administrator and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized as of the day and year first above written.

BEAR STEARNS ASSET BACKED SECURITIES  
I LLC

as Depositor

By: /s/ Baron Silverstein

-----  
Name: Baron Silverstein  
Title: Vice President

EMC MORTGAGE CORPORATION,  
as Seller and Company

By: /s/ Dana Dillard

-----  
Name: Dana Dillard  
Title: Senior Vice President

WELLS FARGO BANK, NATIONAL  
ASSOCIATION,  
as Securities Administrator and  
Master Servicer

By: /s/ Stacey Taylor

-----  
Name: Stacey Taylor  
Title: Assistant Vice President

U.S. BANK NATIONAL  
ASSOCIATION, as  
Trustee

By: /s/ Vaneta I. Bernard

-----  
Name: Vaneta I. Bernard  
Title: Vice President

&lt;PAGE&gt;

STATE OF NEW YORK                    )  
                                      ) ss.:  
COUNTY OF NEW YORK                )

On this 30th day of July, 2004, before me, a notary public in and for said State, appeared Baron Silverstein, personally known to me on the basis of satisfactory evidence to be an authorized representative of Bear Stearns Asset Backed Securities I LLC, one of the companies that executed the

7/18/2017

<https://www.sec.gov/Archives/edgar/data/1299308/000088237704001655/d252871.txt>

within instrument, and also known to me to be the person who executed it on behalf of such limited liability company and acknowledged to me that such limited liability company executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF MARYLAND            )  
                                  ) ss.:  
COUNTY OF HOWARD            )

On this 30th day of July, 2004, before me, a notary public in and for said State, appeared Stacey Taylor, personally known to me on the basis of satisfactory evidence to be an authorized representative of Wells Fargo Bank, National Association that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation, and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF TEXAS                )  
                                  ) ss.:  
COUNTY OF DALLAS            )

On this 30th day of July, 2004, before me, a notary public in and for said State, appeared Dana Dillard, personally known to me on the basis of satisfactory evidence to be an authorized representative of EMC Mortgage Corporation, one of the corporations that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

<PAGE>

STATE OF MASSACHUSETTS     )  
   ) ss.:  
 COUNTY OF SUFFOLK            )

On this 30th day of July, 2004, before me, a notary public in and for said State, appeared Vaneta I. Bernard personally known to me on the basis of satisfactory evidence to be an authorized representative of U.S. Bank National Association that executed the within instrument, and also known to me to be the person who executed it on behalf of such corporation, and acknowledged to me that such corporation executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
 Notary Public

[Notarial Seal]

<PAGE>

#### EXHIBIT A-1

#### Form Of Class A-[1][2][3][4][5][6] Certificate

SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES, THIS CERTIFICATE IS A "REGULAR INTEREST" IN A "REAL ESTATE MORTGAGE INVESTMENT CONDUIT," AS THOSE TERMS ARE DEFINED, RESPECTIVELY, IN SECTIONS 860G AND 860D OF THE INTERNAL REVENUE CODE OF 1986 (THE "CODE").

[FOR CLASS A-[1][2][3][4][5]]: THE CERTIFICATE PRINCIPAL BALANCE OF THIS CERTIFICATE WILL BE DECREASED BY THE PRINCIPAL PAYMENTS HEREBON. ACCORDINGLY, FOLLOWING THE INITIAL ISSUANCE OF THE CERTIFICATES, THE CERTIFICATE PRINCIPAL BALANCE OF THIS CERTIFICATE WILL BE DIFFERENT FROM THE DENOMINATION SHOWN BELOW. ANYONE ACQUIRING THIS CERTIFICATE MAY ASCERTAIN ITS CERTIFICATE PRINCIPAL BALANCE BY INQUIRY OF THE TRUSTEE NAMED HEREIN.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE DEPOSITOR OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY AND ANY PAYMENT IS MADE TO CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

# **Appendix**

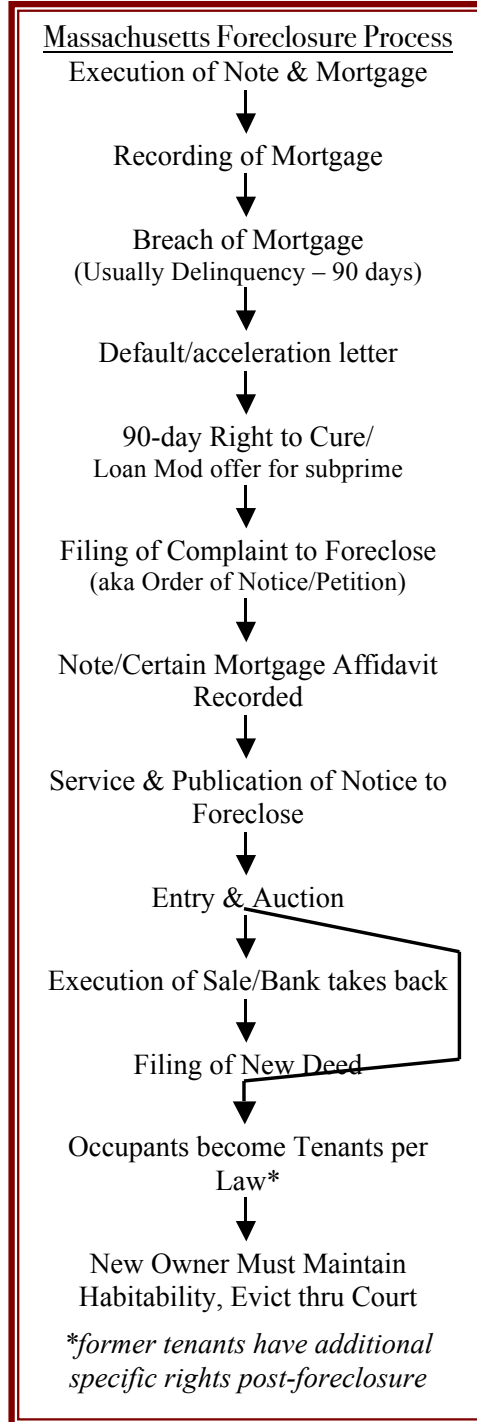
- A. Massachusetts Mortgaging and Foreclosure Process**
- B. 120 Common Violations in Mortgaging and Foreclosure**
- C. Foreclosures: Denying Massachusetts an Economic Recovery**

## Massachusetts' Non-Judicial Foreclosure Process

What does it mean to be a non-judicial foreclosure state? It means that borrowers do not get a day in court in front of a judge before they are foreclosed upon. It means that Massachusetts built its legal process on a *strict honor code*. Since foreclosing entities are not required to go in front of a judge, our law literally expects them to behave *even more scrupulously and honestly* than if we did require foreclosures to be reviewed by a judge<sup>1</sup>.

In recent years, lenders behaved in ways that were historically unique: mortgages went from being primarily written by bankers, direct employees, to being primarily written by brokers who were subcontractors to mortgage companies. Mortgage companies were not governed by the same legal requirements in home lending that our standard banks have been. Instead of the lender who owned the mortgage billing and otherwise servicing its own loan, lenders contracted these responsibilities out to “servicers”, often a division of another bank. Mortgage companies came to be the primary lenders for a brief period of time in the early 2000s. Instead of financing these mortgages themselves, however, they “bundled” many of them into “trusts” so that other investors financed them. The practices and outcomes of this lending period not only undermined the economy worldwide, but also drove mortgage companies out of business in a just a few years.

How then do foreclosures happen in Massachusetts<sup>2</sup>? Lenders allow borrowers to get three months delinquent (behind in monthly payments); then lenders have to wait thru the “right to cure” period and only then can begin the formal foreclosure process. The formal non-judicial foreclosure process in Massachusetts starts with what is called an “order of notice”, “complaint” or an “active military service” notification. This foreclosure petition process starts with a filing in Land Court that requires various papers, including the default/right to cure letter and submission of the language for advertisement of the property for auction. Out of that, an active military service letter is sent to borrowers to verify whether somebody on the mortgage (or in the borrowing



<sup>1</sup> The recent *Ibanez [cite]* ruling from Massachusetts Supreme Judicial Court lays out in depth legal precedence for strict adherence required by lenders to each step in the mortgaging and foreclosure process in Massachusetts, pp.14-15, And as Justice Cordy states unequivocally in his concurring opinion “such strict compliance is necessary because Massachusetts is both a title theory State and allows for extrajudicial foreclosure”, p.27

<sup>2</sup> Revised from Amanda Zuretti, *Residential Foreclosures*, 7<sup>th</sup> Edition, Massachusetts Mortgage Association/CATIC

household - it has been interpreted differently at different times) is in active military service. If so, foreclosures are prohibited. If the borrowers do not access the military service protection, judgment enters for the foreclosing entity

After filing in Land Court, and after Land Court sends out the active military service notice, the foreclosing lender records this notice at the county or district Registry of Deeds. Because of the new law effective August 3, 2012, lenders are then required to record an affidavit known as a Chapter 244, Section 35B and 35C affidavit. In it, the lender attests that it either holds the promissory note, or is acting on behalf of the note holder, as well as holding the mortgage; it also attests that the lender has made a check of the mortgage for certain subprime characteristics, as also required<sup>3</sup>.

Once this affidavit is recorded, banks are allowed to continue with the traditional step of publication three times in a newspaper in circulation in the community where the property is located. They must also send notice of foreclosure auction to the owner occupant. They then go ahead with the foreclosure auction at the time either noticed in the paper, or postponed in person through public proclamation to a future date when they can auction the property. In general, a representative of the bank at the auction will also step (set foot) on the property to start the three year period for foreclosure by entry. "Foreclosure by entry" is different way to foreclose in Massachusetts. In this crisis, lenders frequently end up buying the property back themselves or selling it to another lender rather than to private investors or new owner-occupants: most banks are unwilling to accept a low private bid. This practice has led to a backlog of unsold properties and sometimes, research has shown, to not even formally marketing foreclosed properties.

Additional steps are required after the auction sale. Traditionally by law, the entity that purchased at the foreclosure sale is to notify the homeowner of new ownership, as well as notifying the municipality. If, at the time of the foreclosure, monies are bid over the amount of the outstanding debt, the foreclosing lender is supposed to send a letter to the foreclosed homeowner accounting for the expenditures for the foreclosure. A number of municipalities now require various steps to meet sanitary code and, in some communities, the depositing of a cash bond prior to foreclosure. To meet the requirements of the 2010 tenant law, foreclosing entities are supposed to post, deliver, and slip under the door of any potential former tenant a notice notifying them of their right to stay in the property and to rent it if the property was purchased back by a foreclosing entity.

A key component of the first legislation the Massachusetts State House passed was implementing a "right to cure" period – a time period created in hope that voluntary modification negotiations

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<sup>3</sup> The 2012 law included this additional test for mortgages that entered the right to cure period after the August 3, 2012 signing of the new law. Lenders are now required to assess whether those mortgages had subprime characteristics. If the mortgage has those subprime characteristics, lenders must provide a special offer of a loan modification to the homeowner; if that homeowner replies in the manner required, lenders must provide the homeowner with a special by mail negotiation process to verify if the homeowner qualified for a loan modification under that process. If so, the bank must make an offer, the homeowner make a counter offer, and then negotiate a "commercially reasonable" loan modification; that is, a loan modification by which the lender loses less than through foreclosure. Lenders are to share this information with the homeowner. This may well lead to better modification offers.

Be careful: a homeowner who does not follow the by-mail negotiation process properly can end up with only a 90 day – instead of the present 150 days– right to cure period. The certain characteristics considered typical of subprime mortgages are: an introductory interest rate for three years or less; at least two percent lower than the fully indexed rate; interest-only payments; or payments that are less than the regular principal and interest amortized over the life of the loan; not requiring full documentation; having pre-payment penalties; the loan was either over 90% of the value and the borrower was going to be paying more than 38% of their income, or the loan together with other loans was going to exceed 95% of the value of the home.

would happen and be successful. This 90 day right to cure period was inserted after the 90 days of delinquencies and prior to the formal start of the non-judicial foreclosure process (filing in Land Court and the active military service letter).

However, like other governmental policy attempts to make it easier or even to sweeten the pot for lenders to modify loans, the “right to cure” period yielded a *tiny* percentage of loan modifications. In Massachusetts’ 2010 omnibus foreclosure legislation, the “right to cure” period was extended to 150 days unless lenders actually participated in loan re-negotiations. In January 2016, the “right to cure” period reverted to 90 days long.

Because of past periods of increased foreclosures, legal advocates got a 1992 court ruling in Massachusetts<sup>4</sup>. This clarified that all occupants in homes post-foreclosure are tenants of the new foreclosing owner, the new landlord. While not extended the full range of rights of traditional tenants, they did get such fundamental rights as rights to a habitable living space and to eviction through court.

Massachusetts therefore entered this crisis with one better buffer to negative impacts of foreclosure than other states: post-foreclosure occupants had a right to eviction by court, not just by informal demands, which are too prone to becoming harassment. In May of 2009, federal legislation extended protections for former tenants post-foreclosure. This required that the step before court eviction, a “notice to quit” letter, had to provide a 90 day period, and not just a standard two to four weeks<sup>5</sup>.

In 2010, Massachusetts unanimously passed historic protections for former tenants to be able to stay and pay rent to the lender-foreclosing landlords until buildings are re-sold to a non-lender third party (Mass General Laws Chapter 186a).



<sup>4</sup> From the last predatory lending foreclosure period of the early 1990s, Massachusetts law extended a type of tenant status to occupants post-foreclosure: this tenant-at-sufferance status guaranteed fundamental tenant rights to habitability and to eviction through court. *Attorney General v. Dime Savings Bank*, 413 Mass. 284 (1992)

<sup>5</sup> Protecting Tenants at Foreclosure Act, Pub. L. 111-22 (2009)



## **Massachusetts Alliance Against Predatory Lending**

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April 4, 2016

### **120 MOST COMMON MORTGAGING & FORECLOSURE VIOLATIONS**

#### **Origination**

1. The named lender on the mortgage and the note did not in fact lend any money because the money they lent was not their own and therefore the mortgage contract was never consummated.
2. Lack of disclosure of real lender (parties) to mortgage contract (lack of consummation)
3. The mortgage includes MERS and as contract requirements of disclosure of all parties to the mortgage loan unless a MERS disclosure was included in the closing package, the loan was never consummated. Or if the mortgagor was fully verbally informed at closing (simply a rushed mortgagor's signature is no proof of full disclosure, especially with language, disability, etc. barriers) (lack of consummation)
4. The mortgage had terms or conditions that were disadvantageous to the borrower personally or because of a protected class or because of their geographic location which made the mortgage illegal under MGL Chapter 183 §64.
5. Mis-/Overrepresentation of income
6. Lack of proper disclosure of the mortgage characteristics (lack of consummation)
7. Over-appraisal of property – leading to a mortgage (or combined mortgages) over 80% or more often over 100% (underwater at signing means never consummated)
8. The mortgage was “doomed to fail”. (Based on the Fremont decision which was brought on the 2004 predatory lending statute in Massachusetts. That statute had particular characteristics in it BUT the Fremont Court stated it was not the particular statutorily defined characteristics: the borrower could not be expected to know how the various characteristics would interact such that the mortgage was doomed to go into default and such that the homeowner would be trapped in that situation. Characteristics enshrined in MGL Chapter 244 §35b any one of which is sufficient. The correct remedy is an affordable loan modification. Any mortgage that was doomed to fail and goes into default is predatory and illegal under Massachusetts law.)
9. Lack of two copies of the right to cancel (TILA violation – 4 year statute of limitations)
10. Enticement into taking a bad loan because of promises of being able to get out of it later which goes to consumer §93A violation and federal unfair and deceptive practices.

### **Chain of title to the mortgage**

1. Missing assignment (all Securitized Trusts, any Fannie/Freddie with more than 1 servicer – up to 90%)
2. Multiple assignments that cancel each other out that create a chain of title that's impossible. (50%+ in last 3 years)
3. An attempt to file corrective assignments which do not seek to correct a Scribner's error, but seek to repair the chain of assignment which is not a corrective assignment. (assigning of the mortgage never happened – infrequent but fatal)
4. Deficient assignment that's
  - a. not executed,
  - b. not dated,
  - c. not notarized,
  - d. notary is not on the date of the signature which invalidates the notarization.
  - e. notary is not where the signer was
  - f. notary not licensed
5. Recital of value transferred which did not happen but instrument recorded (Chapter 183 §6 for any recorded conveyance – almost 100% of bank buybacks and Fannie/Freddie purchases)
6. Assignor or assignee of MERS since MERS cannot own mortgages and cannot receive money on behalf of mortgages. (50% of mortgages)

### **Chain of Transfer of Note**

If the debt becomes unenforceable or in some way facially defective or not transferred according to the UCC such that the negotiability of the note is destroyed, a mortgage is a “nullity” without the underlying debt. If no original Note can be provided or the chain of note does not end in ownership/holder of the Note by foreclosing entity or its agent. For a note with a securitized asset such as in a mortgage to transfer legally the ownership of the note and the powers of the person entitled to enforce every transfer must have been done with intent and for value.

1. Unaffixed allonges, an original allonge without affixation means note no longer negotiable. (At least 50% for mortgages origination after 2002.)
2. Copy of a supposedly original note which is clearly not the original (very common when the original note has been provided).
3. A facial defect (crossed out or voided out signature, for instance; 10%? But fatal)
4. Transferee not notified of defect. (once a note is in default, for instance, for it to be properly negotiated, the party that purchases has to have known that it was in default. This requires primary evidence which we have never seen provided).

5. If a note is not specially endorsed, no proof of each intent. (close to 100%.)
6. Endorsement not actual signature, no proof of intent. (close to 100%)
7. Proof of authority for each endorsee. (close to 100%)
8. Full chain of custody of the Note, with transfer and delivery affidavit for each transfer. (close to 100%.)
9. No value for each transfer. (no evidence has ever been provided.)
10. Endorsement by company after endorser company out of business. (more frequent recently)
11. Physical note no longer in existence. (Very common based on Industry standard but without many produced notes, no estimate.)

**Securitized trusts (~30% of mortgages")**

Securitized trusts like Fannie and Freddie only work in whole loans, both mortgage and the note. The large securitized trusts explicitly defined in the language of the trust document, usually a pooling and servicing agreement, the requirements for a trustee to transfer something; the PSAs must be followed exactly under New York or Delaware law where these trusts are always governed. Bankruptcy remoteness requires three arms-length transfers of the mortgage loan both note and mortgage. The Pooling and Servicing Agreements are also written so that every transfer has to follow the rules of the pooling and servicing agreements or the special IRS status is lost; these requirements are legally included in the Trust Document and become binding on all aspects of Trust.

1. No assignments of mortgage of parties explicitly required by the pooling and servicing agreement (PSA-named sponsor, depositor and trustee, 100% violation of Securitized Trusts to date)
2. No endorsements on note of parties explicitly required by the pooling and servicing agreement (sponsor, depositor and trustee, 100% violation of Securitized Trusts to date EXCEPT possibly if MERS exception in PSA).
3. Transfer of the mortgage loan both mortgage and note not by the closing date or if it specifically identified that there could be substitute loans by the substitute loan date which is generally two years later. (100% violation of Securitized Trusts to date.)
4. Note not endorsed in the manner defined in the Pooling and Servicing Agreement. (maybe 50% of Securitized Trusts)
5. Many Pooling and Servicing Agreements exclude predatory loans and a trust that excludes such loans could not have such loans with the characteristics identified above.

6. Founding document for a Securitized Trust not fully executed – not fully signed and notarized. (frequent and if so, fatal)
7. Lack of mortgage schedule particularly identifying mortgage. (Frequent and if so, fatal.)
8. Lack of any Trust Document
9. Claim of transfer of mortgage including MERS without a MERS allowance in Pooling and Servicing Agreement.
10. Affidavits attesting for transfers signed by servicer BEFORE servicer contract existed. (Common)

**Only registered foreign corp can own interest in property**

Mortgagee/ Legal titleholder to the property is an interest in property in a title theory state and therefore any entity that is not a Massachusetts legal entity would have to be registered as a foreign corporation in Massachusetts to be allowed to have an interest in property. (MGL Chap 156D, 15.01, 15.02, and 15.03 – comparable exist for LLCs.)

1. Each entity named in a Pooling and Servicing Agreement was not registered as a foreign corporation in Massachusetts.
2. Trust itself not registered (Bank as Trustee of Trust)
3. By the time of the Land Court hearing the party identified as the mortgagee is not the actual party with a financial interest in the mortgage. Name party cannot be only servicer.

**Notice of default**

1. Default notice not sent by the lender under Mortgage.
2. Default notice not sent from the mortgagee if under MGL Chapter 244 §35A.
3. Not in default
4. Nature of default not included or wrong.
5. Cure period under default notice not run its course.
6. Cured during cure period but foreclosure went forward anyway

In addition, the standard contract requires compliance with the laws of the location of the mortgage and that mortgage requirement also as all elements of a mortgage in a foreclosure must be strictly complied with; therefore the elements of the right to cure statute (contents of letter and procedure), and other statutes in Massachusetts will require strict compliance to the extent to which they are incorporated into the mortgage contract itself. Therefore, the elements of Chapter 244 §35A will require strict compliance as they are the laws that control the notification and

right to cure period compliance under state law which is incorporated for strict compliance in the mortgage contract.

- a. not properly identifying the mortgagee. New notices identify the servicer as both the mortgagee and generally the note holder violating the mortgage contract and Massachusetts General Laws Chapter 244 §35A.
- b. not naming the broker or the originator;
- c. not naming a single point of contact as the mortgagee is required;
- d. not providing the full 90 or 150 day period;
- e. including fees not allowed under statute;
- f. required mortgagee affidavit not by competent affiant
- g. required mortgagee affidavit not by affiant of mortgagee
- h. mortgagee affidavit factually wrong
- i. Required copy of notice illegally redacted
- j. required copy of notice not a copy

7. Not include the required language that the action to foreclose may happen if the violation isn't cured during the right to cure period;

8. Include language that implies that there is a judicial foreclosure in the homeowner's future not foreclosure by sale.

9. Foreclosure with a right to cure letter more than 3/5 years old depending on when it was filed. (MGL 244)

#### **Bankruptcy violations**

1. foreclosed during a bankruptcy proceeding
2. amount of time supposed to be allowed to elapse did not occur.

#### **Most common violations of loan modifications**

Loan modifications done under HAMP or done under Fannie Mae's proprietary loan modification program require:

1. Timely response by the servicer to your loan modification application, pretty much always violated;
2. Not allowed to attempt to modify even if you are not delinquent or in default
3. Told to go into default (violation of creditor/debtor laws)
4. Since sometime in 2011, legally required to provide the numbers used to create the calculus for turning you down (Net Present Value)
5. information requested not illegal

6. loan modification predatory (MGL Chapter 183 §64)
  7. Loan mod discriminatory (MGL Chapter 183 §64)
  8. Loan modification with non-mortgagee and/or lender.
  9. Foreclosed without final turn down
  10. Foreclosed during a trial loan modification (this can be limited by number of mods attempted but if the reason you applied for a new loan modification instead of completing a prior loan modification process because you were advised by the mortgagee or their agent to do so – they're not allowed to advise you on something that violates your rights or protections. (FDCPA among others)
- Note: if it's a predatory loan they have to do give you a loan modification rather than doom you to fail under the Fremont decision.
11. Facially complete Loan Modification application in to the servicer 7 business days or more before the auction, and the lender still refuses to postpone the auction (MHA regulations)
  12. Excessive documentation requests (MHA)
  13. Improper missing document notifications (MHA)
  14. Dual tracking-someone within their right to cure period with a loan modification package that has been submitted getting their land court notice (MGL 244/DOB)
  15. Approving a streamline modification while refusing to review for a HAMP (MHA)
  16. Lack of a true single point of contact. (Single point of Contact teams/ single point of contact unavailable.) (MHA/DOB)
  17. Servicers tell consumers that they have to miss a few payments to be eligible for a loan mod (MHA/DOB, FDCPA)
  18. Loan Modification Applications not being submitted to underwriting in a timely fashion, or not at all (MHA, FDCPA)

**Foreclosure process itself**

1. Three notices of sale not published. MGL 244 14/Ibanez
2. Not paper that actually in general circulation in a community in question. MGL 244 14/Ibanez
3. The language for the terms of sale in that notice is statutorily required is not followed. MGL 244 14

4. Homeowner has not been sent the notification of sale. (clear that if for instance it got returned to them or was sent not to your address or sent not to your name or not sent to a changed name that they know about or not sent to an address change to which they have been notified.) MGL 244 14 /Bailey
5. Sale did not occur on or near the property. MGL 244 14 /Ibanez
6. They did something to chill the sell.
7. No proof of “writing” to transfer interest in property at the foreclosure sale. Memorandum of Terms and Sale for buy-back. In re: Critchlow / In re: Dow Statute of Frauds
8. Sale did not occur in the name of the real party in interest of the mortgage. (Constantly violated by having servicers put their name on legally required mortgagee documents in 50% to 80% or 90% of the foreclosures.)
9. Foreclosure affidavit misrepresented who was highest bidder.
10. They now have to file an affidavit prior to the first notice of sale in the paper swearing to the name of the mortgagee and whether they are also the note holder or the agent of the note holder.
11. Agency agreement or other proof to back up business record-exception in the signing of the Note affidavit. (Recent Kahlsa decision finally that the agency must prove in an actual agency agreement between the mortgagee and the note holder by the time the formal foreclosure process has started.)
12. If the bank purchases back, they must have a power of attorney for the bank’s agent in place at the time of the auction/signing of Memorandum of Sale. May also be necessary for all aspects of bank’s agent’s authority.

**Foreclosure by entry (generally on same day as foreclosure by sale).**

Foreclosure by entry can actually occur at any time after you are in default.

- A. Entry must be done openly. That means it cannot have been done in secret.
- B. The entry must have been unopposed by the homeowner or their agent.
- C. The entry requires two witnesses and a notarization and that document, the certification of entry so completed, must have been filed at the Registry of Deeds.
- D. Notary not allowed if have a horse in the game. If they are the auctioneer, they are getting paid to auction the property. They cannot then also be notarizing for someone who is getting paid as the bank’s representative especially if they’re all part of the same foreclosure outfit and/or if they are both named by the bank in its power of attorney for the actions taken that day because the notary cannot be seen as not having a horse in the game for the entry.
- E. Not enough witnesses who sign off to have actually witnessed it.

F. There has been attempt to forcibly evict the party on the property within 3 years

G. Homeowner has been informed they must leave before 3 years.

**The foreclosure by sale statutes – strict compliance.**

Chapter 244 §11 through Chapter 244 §17.

1. Chapter 244 §15 affidavit is not an affidavit - voids the foreclosure.

a. affiant not have personal knowledge of each thing that happens nor able to sign as the affiant under the business record hearsay exception (signing an affidavit must be an employee for the business for which they are signing, they must have personal knowledge of the regular business practice described in the affidavit and be able to attest to the adherence to that practice within the business in its regular procedures and must attach the business documents which were created in the regular business procedures to which they are attesting).

Statutory form:

first section attests to the homeowner being in default. Affiant must be employee of lender or the mortgagee who has the power to send the default notice and attach the required proof of being in default.

Second section:

- A. notices of sale not published,
- B. not published where sworn
- C. not published on dates sworn,
- D. No service of the notice of sale on the homeowner and
- E. Notice of sale not in the form that was published in the newspaper attached as a copy.

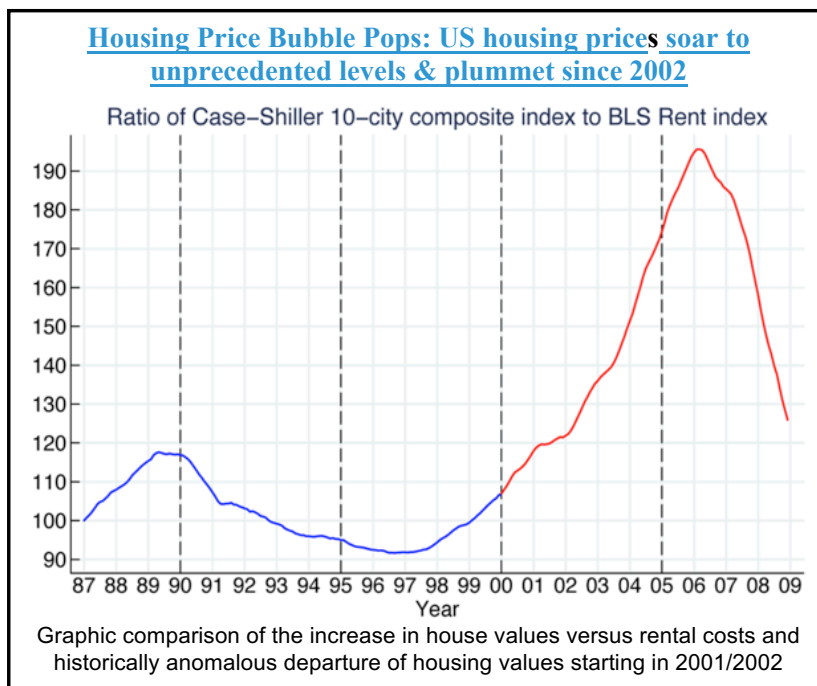
The affiant swears that the notice of sale was properly served must be at least employee of the corporation, company, law firm that took these acts. i. must have personally taken the acts as the employee or ii. be able to swear to them under the business hearsay exception in which case they would have to attach the proof of the regular to which they are attest; the business documents in question.

Third section swears to actions leading up to or as part of the purported auction.

A. On the date of the purported foreclosure, nobody stood on the property and read off that the foreclosure was being postponed. (The banks violate this a lot and if the homeowner was home the banks will say it didn't matter because there were no bidders). If they didn't publically proclaim such that the homeowner, the homeowner's friend, or representative heard the date of the postponement and they did not re-advertise, foreclosure void. They're not allowed to do anything to chill the auction.

B. Too many postponements without new notification in the paper, chills the auction, voids the foreclosure.

# Foreclosures: Denying Massachusetts an Economic Recovery



*By Grace Ross &  
Massachusetts Alliance Against Predatory Lending*

October 13, 2011

Front page graph<sup>1</sup>

The cover graphic compares the increase in property values in major US cities with rents. It shows the extraordinary and historically anomalous departure of property values – the huge housing bubble that has now burst and the continuing tumble in housing wealth which resulted. Provided by the Boston Federal Reserve, this graphs the historic and consistent ratio over time between rents and property values that the Federal Reserve tracks regularly. Property values and rents have maintained close to a standard ratio for the decades since they started measuring them. Author Grace Ross first saw this graph as part of a presentation where a Boston Federal Reserve researcher reported they had noticed an anomalous and historic departure of property values from rents in the early 2000s. Although the historic departure from the ratio because of the increase in property values was noted, he reported that they had not paid much attention to it.

© Massachusetts Alliance Against Predatory Lending



**The Mass Alliance Against Predatory Lending (MAAPL)** is a coalition of over 65 member and supporting organizations – community organizations, housing counseling agencies, legal services groups, labor and others – founded to arrest the impacts of the foreclosure crisis in Massachusetts through grassroots organizing, homeowner/tenant education, legal strategies and policy initiatives.

MAAPL member/supporting organizations

*Action for Boston Community Development, Inc., Action for Regional Equity, Alliance of Providers of Legal Services to Individuals Facing Foreclosure, ARISE for Social Justice, Arlington Community Trabajando, Boston Tenants Coalition, Brazilian Women's Group, Brockton Interfaith Community, Carpenters Local 40, Carpenters Local 107, Charles Hamilton Houston Institute For Race & Justice, Chelsea Collaborative, Chinese Progressive Association, City Life/Vida Urbana, Coalition for Social Justice, Community Economic Development Ctr of S.E. MA, Community Labor United, Democratic Socialists of America, Dorchester People for Peace, Era Key Realty Services, ESAC, Fair Housing Center of Greater Boston, Greater Boston Legal Services, Greater Four Corners Action Coalition, Green-Rainbow Party of MA, Harvard Legal Aid Bureau, Homeowner Options for MA Elders, Jewish Alliance for Law and Social Action, Lawrence Community Works, Lawyers' Committee for Civil Rights Under Law, Lynn United for Change, Legal Assistance Corporation of Central Mass, Mass Advocates for Children, Mass AFL-CIO, Mass Coalition for the Homeless, Mass Community Action Network, Massachusetts Fair Housing Center, Mass Jobs With Justice, Mass Law Reform Institute, Mass Welfare Rights Union, Merrimack Valley Labor Council, NAACP N.E. Area Council, National Community Reinvestment Coalition, National Consumer Law Center, National Lawyers Guild, Neighbor-to-Neighbor, Neighborhood Legal Services, New England United for Justice, No One Leaves – Springfield, North Shore Labor Council, ¿Oiste?, Organization for a New Equality, Painters District Council 35, Pleasant St. Neighborhood Network Center, Southbridge Community Connections, Springfield No One Leaves Coalition, Survivors Inc., Tri-City Community Action Program, UE Northeast Region, Union of Minority Neighborhoods, United Auto Workers Mass CAP, United Food & Commercial Workers 1445, United For a Fair Economy, United Steel Workers Local 5696, Volunteer Lawyers Project, Worcester Anti-Foreclosure Team.*

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<sup>1</sup> © Copyright 2010, Federal Reserve Bank of Boston in Grace C Ross, *Main St. Smarts: Who got us into this economic mess and how we get through it...* (October 2010)

## Executive Summary

This Report, *Foreclosures: Denying Massachusetts an Economic Recovery*, summarizes studies detailing what happened when the housing bubble burst. As of November, 2010, the percentage loss in national home values from the height of the market was greater than that of the Great Depression<sup>2</sup>. How widespread are these economic losses and harms? Who is paying for the losses in Massachusetts? What did studies predict and what has been the reality? What might this mean for our economic future – if state policy-makers take more decisive actions or they do not?

Drawing on and updating many credible studies, MAAPL's report shows Massachusetts' foreclosure crisis continues to worsen. It has reached every corner of the state, impacted every type of community and not only significantly hurt those whose homes get foreclosed but has had far reaching and damaging impacts throughout our communities and economy.

- While initially predicted, 2007 – 2009 property value losses at a projected 7.88% loss for Massachusetts then seemed dramatic to researchers, the Commonwealth has experienced a roughly 20% loss in property value from the height of the bubble through what now, in 2011, appears to have been just the first trough in 2010.
- One 2008 Congressional report predicting loss in household wealth and spending estimated close to \$2 billion loss per month in our Commonwealth's overall economy – a figure so large Massachusetts policy-makers found it hard to conceive. Inserting actual property value loss in our state for the period from 2007 – 2009: the Massachusetts state economy actually lost over \$4 billion per month.
- Municipalities are one of the hardest hit sectors, especially once foreclosed properties are vacated. Even examining just three types of impact, if every one of the 821 foreclosure deeds filed in 2010 led to a vacancy, the Boston economy would have lost \$844,695,702. This is equivalent to roughly one third of the City's operating budget<sup>3</sup>.

Projecting forward, leading experts and various economic indicators show the foreclosure crisis in Massachusetts will continue to worsen in 2011. *RealtyTrac* states, "2011 is going to be the peak"<sup>4</sup>. Direct indicators, such as loss in property values, have already entered another downturn.

*Foreclosures: Denying Massachusetts an Economic Recovery* is primarily a review, compilation and summary of recent studies and research as pertains to the Massachusetts foreclosure crisis and its impacts. However, this report does include a new *case study* on municipal costs to Boston. *Vacant Spaces: the External Costs of Foreclosure-Related Vacancies in Boston* which provides an exemplar for communities throughout the state.

"The foreclosure crisis is the biggest threat to U.S. economic growth," according to Mark Zandi, Moody's chief economist<sup>5</sup>. Insufficiently addressed, the Commonwealth's foreclosure crisis will continue to deny the state an economic recovery as well.

<sup>2</sup> Katie Curnutte, *Home Value Declines Surpass Those of Great Depression*, Zillow Blog (January 1, 2011)

<sup>3</sup> Sam Simon, *Vacant Spaces: the External Costs of Foreclosure-Related Vacancies in Boston* (June, 2011)

<sup>4</sup> Dan Levy and Prashant Gopal, *Foreclosure Filings in U.S. May Jump 20% From Record 2010 as Crisis Peaks*, Bloomberg News (Jan 13, 2011 11:04).

<sup>5</sup> Levy and Gopal, *Foreclosure Filings*



# Foreclosures: Denying Massachusetts an Economic Recovery

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# Foreclosures: Denying Massachusetts an Economic Recovery

## Introduction

Today, in 2011, the impacts of the foreclosure crisis are an all too familiar sight throughout communities in our Commonwealth. When the foreclosure crisis first became visible, it seemed centered in our state's gateway cities and some of our largest towns. Now, it has become a feature of almost every community in our state, including rural and wealthy suburban areas.

While foreclosures seemed to stall at the end of 2010, the multiplying effects of the crisis continue to grow and spread. Several indicators point to the temporary nature of the recent slowdown in the crisis itself.

A study comparing the relative impact of repeated foreclosures shows that the first foreclosure (and concomitant vacancy of a property) has the largest harmful foreclosure consequences in a neighborhood. That first vacated foreclosed property has the biggest impact on property values<sup>6</sup>. With each additional foreclosure, value losses increase but by a smaller amount. Thus, for those Massachusetts communities that are only now being hit by the foreclosure crisis, avoiding the foreclosure and vacating of the first property in a neighborhood may yield the largest savings to that community.

On the other end of the foreclosure impact spectrum, one of the most recent studies has also shown that once the number of vacant foreclosed properties has multiplied beyond a certain level the interactive impact of those foreclosures in a community may begin to have a cascade effect<sup>7</sup>. In his 2010 Sacramento study, *The Recent Pervasive External Effects of Residential Home Foreclosure*, Robert Wassmer showed the much more dire, reinforcing impacts of so many, densely-packed foreclosures in a city with a high percentage of foreclosures. The tendency of foreclosures to produce more foreclosures may make reclaiming our hardest hit neighborhoods very lengthy and resource intensive indeed. We cannot afford to lose neighborhoods or communities economically and socially for the foreseeable future.

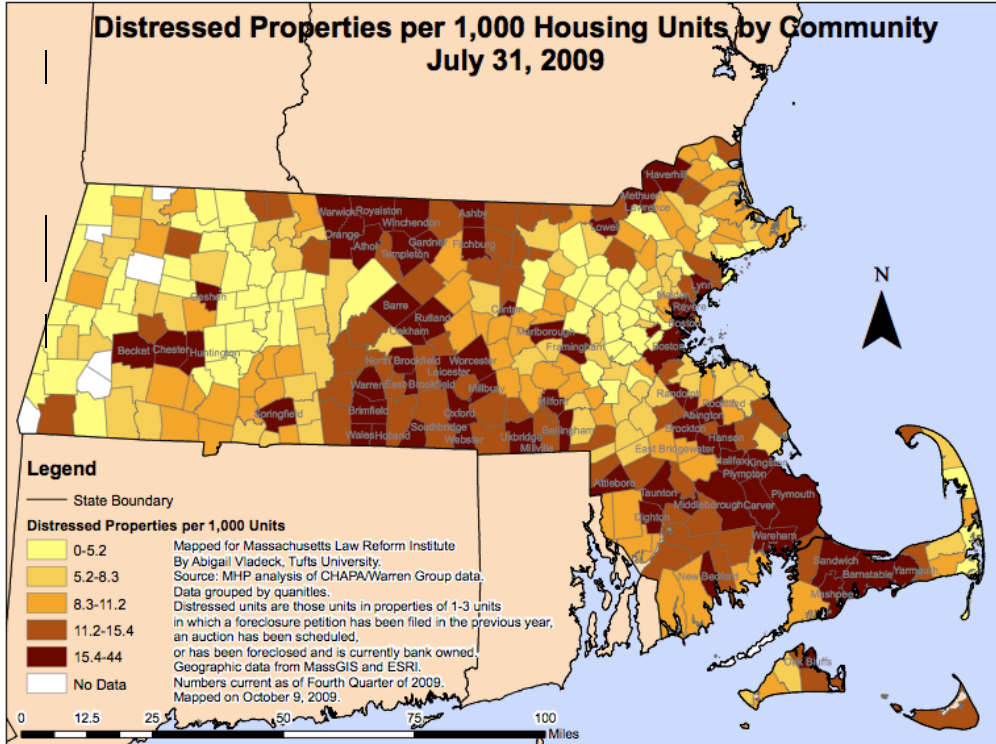
*Foreclosures: Denying Massachusetts an Economic Recovery* addresses what has happened since the historically anomalous ramp up in housing values crashed in 2006. How widespread are these economic harms? And who is paying for the losses in Massachusetts? What have studies predicted and what has been the reality? What might this mean for our economic future if state policy-makers take more decisive actions or they do not?

*Foreclosures: Denying Massachusetts* surveys statistical impacts for the increasing number of foreclosures specific to Massachusetts: from losses in housing values and concomitant loss in

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<sup>6</sup> In a 2008 New York City study, researchers found: “the size of the price impact generally increases with the number of nearby foreclosure starts, although the marginal impact of each additional foreclosure decreases once there is a concentration of foreclosures in a neighborhood.” This result replicates other results such as Wheaton’s 1990 study. Vicki Been, *External Effects of Concentrated Mortgage Foreclosures: Evidence from New York City*, Testimony, Committee on Oversight and Government Reform Subcommittee on Domestic Policy (May 21, 2008).

<sup>7</sup> In the only study during the height of the crisis in a heavily impacted community, Wassmer found: “the selling price of non-real estate owned homes, due to the foreclosure of neighboring homes, on average fell by \$48,827... or 31.9 percent”. Robert W. Wassmer, *The Recent Pervasive External Effects of Residential Home Foreclosure* (July 19, 2010).

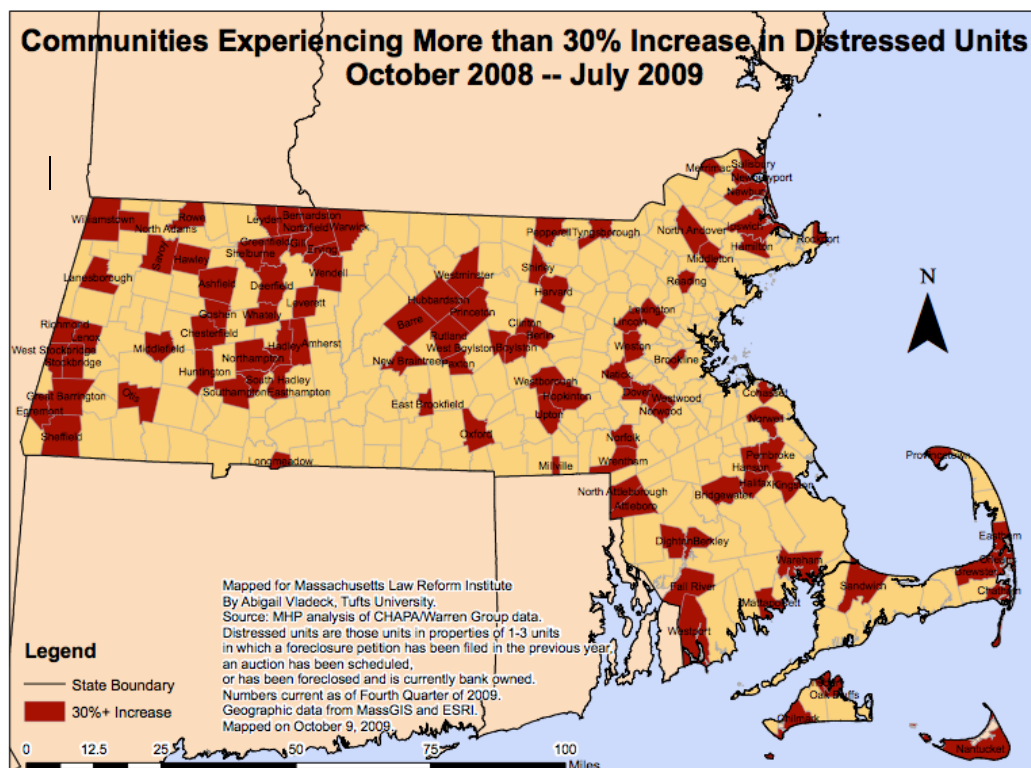


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While the Commonwealth's foreclosures initially seemed limited to predatory mortgages and to communities of color or inner-city communities, our early predictions that delinquencies and foreclosures would impact all constituencies throughout our whole state\_were\_accurate.



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The first and continuing focus for many is necessarily the impacts on those Massachusetts residents most directly affected – borrowers and others whose homes are impacted by foreclosures. These include the obvious impacts of loss of housing, increasing homelessness, loss of credit; as well as less measured impacts on children in these households, health of family members, household stresses leading to increased domestic violence and divorce.

The other direct partners to this situation are the major lenders – the vast majority of whom are headquartered far from Massachusetts. The report, therefore, mostly does not focus on the big lenders since their losses occur out of state. The key fact remains, however, that lenders lose the most financially when they foreclose on mortgages (even in comparison to loan modifications that include principal reduction) and lose the most value post foreclosure when properties are left

<sup>8</sup> Source: Mass Housing Partnership analysis of CHAPA/Warren Group data. Data grouped by quantities. Distressed units are those 1-3 unit properties on which a foreclosure petition was filed the previous year, an auction scheduled, or the unit foreclosed and is currently bank owned. Geographic data from MassGIS and ESRI. Numbers current as of Fourth Quarter of 2009, Mapped on October 9, 2009.

vacant for long periods before re-sale. Although experiencing some loss through increased foreclosures, our local banks lose the most financially as lenders when their business loans and neighboring mortgage loans suffer as the economy of their local communities takes a beating.

The foreclosure crisis' impacts are multiple and reach far beyond the lives of those who lose a home. They are not limited to the number of foreclosures and vacancies themselves and the loss in property value of the foreclosing of those particular properties. The market value of properties nearby plummet partly due to loss of value in the foreclosure sales themselves. This decrease is multiplied by vacant properties' impact in terms of appearance, health issues, increased crime, potential of fire, loss to the fabric of the community by instability, the loss of the families to the fabric of community institutions and schools. The loss in property values then contributes to the negative equity of surrounding homes and people's inability to sell and move from homes now underwater when they need to for economic reasons. Fold in the stress and specter of homelessness and need to move, the initial foreclosure can cost residents their jobs and health<sup>9</sup>.

This collateral damage impacts local spending, the local economy, small businesses, and jobs. Additionally, the loss of property values and so primary tax base becomes a body blow to municipal governments and services. Perhaps equally or more importantly, services and finances of municipal governments are taxed as they try to manage foreclosed, usually ignored and frequently vacated, properties. These strain inspectional services and increase negative health consequences, issues of upkeep and appearance of properties and degradation of vacated properties. Vacancies in turn lead not only to property related crimes, but significantly increase violent crime, the dangers of fire and such health hazards as vermin, mold and mildew, and neglected pools that breed mosquito populations<sup>10</sup>.

This crisis impacts the entire economy, the revenues and costs to all levels of our governments and ultimately all of us as taxpayers and participants in an economy we need to recover.

### Foreclosures Increasing; Drop off Temporary

Amidst short term fluctuations, the increases in petitions to foreclose (first step in the foreclosure process) and foreclosure deeds have demonstrated a clearly increasing trend line since the beginning of the foreclosure crisis in 2006. Even without consistently increasing trends, the cumulative impacts would still grow. Properties once foreclosed continue to stay on the market for lengths outside previous norms. In addition, many properties are not even recorded in a timely fashion or even put on the market when taken back by lenders<sup>11</sup>. 44,100 Massachusetts

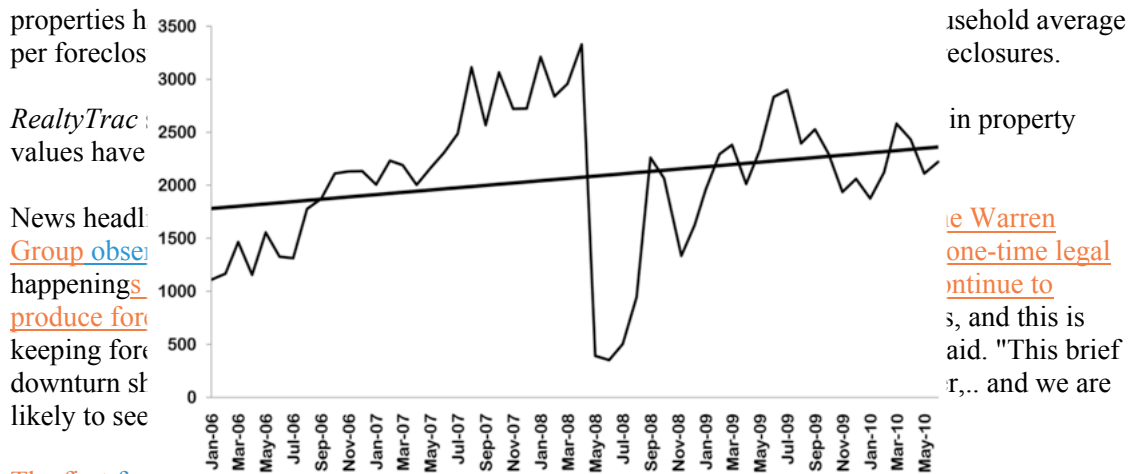
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<sup>9</sup> Based on zip code level trends from Arizona, California, Florida and New Jersey, researchers find that increases in foreclosures correlates with increases in anxiety and suicide attempts, for preventable conditions like hypertension and possibly stress-related complaints like abdominal pain but not cancer deaths or elective procedures. These health issue trends are worst for 20 to 49 year-olds and African-Americans and hispanics. Janet Currie and Erdal Tekin, *Is the Foreclosure Crisis Making Us Sick?* National Bureau of Economic Research, (August, 2011).

<sup>10</sup> This list of impacts includes a recitation of municipal expenses the City of Worcester included in their ground-breaking anti-foreclosure ordinance as billable to lenders. Worcester, Mass., Rev. Ordinances ch. 9, § 14 (2010).

<sup>11</sup> "I do know that banks are holding onto inventory, and what they're doing is they're metering them out at an appropriate level to what the market will bear," said Pat Lashinsky, chief executive of online brokerage site Zipreality in a July 7, 2009 interview on National Public Radio. RealityTrac also reported this phenomenon in 2009. Cleveland Federal Reserve researcher, Daniel Hartley references the Lashinsky quote and then chooses to use

Massachusetts Monthly Filings of Petitions to Foreclose  
January 2006 to May 2010



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foreclosure auctions occurred because of elongation of the amount of time it took for lenders to make it through all the steps of the Massachusetts foreclosure process. However, that turned out merely to be a postponement of the foreclosures – jumping back up after the temporary elongation. Foreclosures already in the pipeline continued, it just took them longer to reach the point of an auction.

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a private, non-market source for his foreclosure data in his September 2010 study, *The Effect of Foreclosures on Nearby Housing Prices: Supply or Disamenity*, p.4.

<sup>12</sup> Presentation by Mass Bank Commissioner Anthony, Esq. at Suffolk Law School, October 14, 2011

<sup>13</sup> National Low Income Housing Coalition, *Foreclosure in Massachusetts Properties, Units, and Tenure* (May 9, 2008)

<sup>14</sup> Levy and Gopal, *Foreclosure Filings in U.S. May Jump 20%*.

<sup>15</sup> Michelle Laczkoski, *Mass. Foreclosure Activity Continues Dramatic Decline In March, Foreclosure Petitions, Deeds Drop By Double Digits*, The Warren Group (April 20, 2011); RealtyTrac Staff, *Massachusetts Foreclosures Decline in January*, RealtyTrac (February 28, 2011), Associated Press, *Mass Housing Prices on the Decline*, Boston Globe (May 24, 2011)

<sup>16</sup> *April foreclosure petitions up from previous months*, Boston Globe, May 17, 2011

The other contributor is the impact of the legal exposures by numerous Attorneys General across the country. Often the visibility of bank irregularities was exposed by Attorneys General in states with judicial foreclosure and other means of observing the patterns of legal actions by the banks. These investigations often expose what we have seen anecdotally in Massachusetts: numerous forms of illegal filings and manipulation of mortgage paperwork. The widespread media coverage has led to a number of self-imposed moratoriums by the largest lenders as they seek different legal fixes to their questionable mortgage transactions<sup>17</sup>. Some types of these transactions may not be reparable. In May of 2009 in our Commonwealth, a number of titles to deeds came into question in ruling by a Springfield Housing Court judge<sup>18</sup>. Those cases – now known as the Ibanez decision – have pointed to sometimes legally irreparable problems in some mortgage transfers and foreclosures that occurred in our state.

The above chart<sup>19</sup> shows that, even with the drop off in foreclosure because of the elongation of the process to foreclose when the 90 day Right-to-Cure period was first imposed in May of 2008 and initial Ibanez case in Massachusetts in March of 2009, the trend line of the number of foreclosures actually continued even though the short term drop off seemed significant.

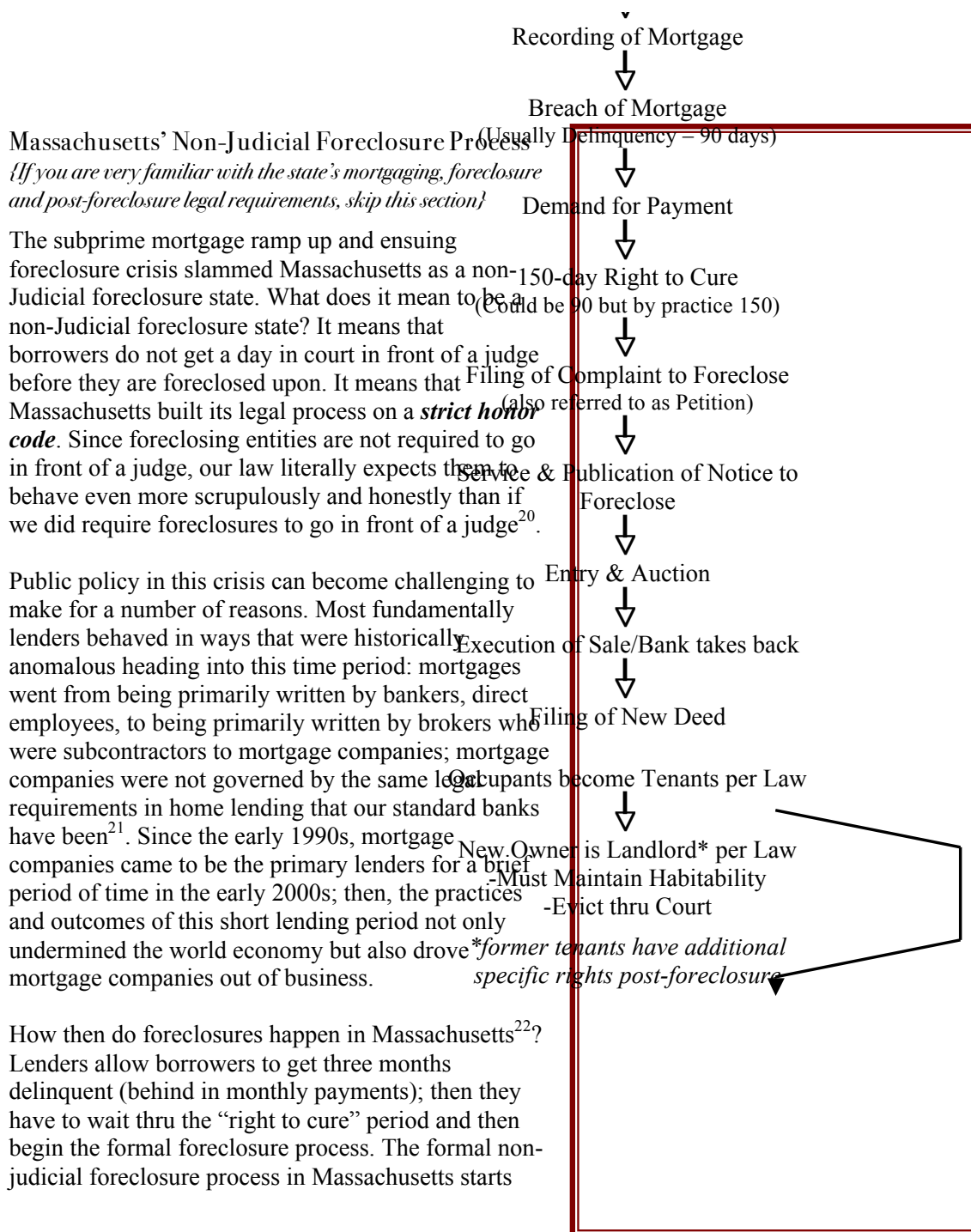
Since the fundamentals of the foreclosure crisis have not changed, we expect that the present dip in foreclosures will again return to the same trend line over time. We have not succeeded in addressing the fundamental losses of the burst of the historically anomalous over-pricing of properties. Nor have we addressed the devastating impacts of vacant foreclosed properties. No new policies address the culpability of the largest lenders, the legal irreparability of a number of the mortgage transfers, incomplete or illegal filings in the Registry of Deeds and questionable handling of loan modifications. We have not begun to address at the policy level the continuing huge property value losses and how the speculative value that was created in our housing stock is being paid for. Nor have we addressed the impact of the significant wealth drawn out of households through mortgages based on those unrealistic values and how that loss of capital assets from a huge swath of our population and how its profound economic impact on the spending ability of hundreds of thousands of households. All of these imply the long-term continuation of problems driving the foreclosure crisis with the lion share of costs of the crisis paid for by the people of Massachusetts, our local economies and our governments' resources.

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<sup>17</sup> Danny King, *JPMorgan Chase to Delay Some Foreclosures to Review Documents*, DailyFinance (September 29, 2010); Danny King, *Bank of America Joins the Foreclosure Delay Brigade*, DailyFinance (October 01, 2010); Dan Burrows, *Goldman Sachs Suspends Evictions and Foreclosures*, DailyFinance (November 9, 2010)

<sup>18</sup> U.S. Bank National Association v. Ibanez, 458 Mass. 637 (2011).

<sup>19</sup> Created by and printed with permission from the Warren Group for Grace C Ross' *Main St. Smarts: Who got us into this economic mess and how we get through it...* (October 2010)



<sup>20</sup> The recent Ibanez ruling from Massachusetts Supreme Judicial Court lays out in depth legal precedence for strict adherence required by lenders to each step in the mortgaging and foreclosure process in Massachusetts, pp.14-15, And as Justice Cordy states unequivocally in his concurring opinion "such strict compliance is necessary because Massachusetts is both a title theory State and allows for extrajudicial foreclosure", p.27

<sup>21</sup> The regulations of mortgage originations have been refined over decades for chartered banks through a series of bank crises, however, with that advent of Mortgage Companies in the early 1990s regulators from a number of federal agencies opted not to apply those same regulations to Mortgage Company transactions leading to the development of fundamentally different mortgages generally referred to as subprime mortgages. Krugman.

<sup>22</sup> Amanda Zuretti, *Residential Foreclosures*, 7<sup>th</sup> Edition, Massachusetts Mortgage Association/CATIC

with what is called a “petition”, “complaint” or an “active military service” notification. The petition process starts with a filing in Land Court requiring various papers and submission of language for advertisement of the property for auction. Out of that filing, an active military service letter is sent to borrowers to verify whether somebody on the mortgage (or in the borrowing household it has been interpreted differently at different times) is in active military service. If so, foreclosures are prohibited. If the borrowers do not access the military service protection, judgment is entered.

After 3 consecutive weeks of notifications in a paper of general circulation, a lender’s law firm may hire a licensed auctioneer for the prescribed date, place and time to hold the foreclosure auction; the auctioneer must stand on the actual property itself. In this crisis, lenders frequently end up buying the property back themselves or selling it to another lender rather than to private investors; most banks are unwilling to accept a low private bid. This practice has led to a backlog of unsold properties and sometimes, research has shown, not even formally marketing properties.

As the burgeoning foreclosures first became apparent, there was a hope that lenders would voluntarily choose to do work-outs with borrowers where possible since early evidence showed that avoiding foreclosure not only cost less for families and our communities, but also for lenders. A key component of the first legislation the Massachusetts State House passed was implementing a right to cure period – a time period created in hope that voluntary modification negotiations would happen and be successful. This 90 day right to cure period was inserted after the 90 days of delinquencies and prior to the formal start of the non-judicial foreclosure process (the Land Court filing and the active military service letter). However, like other governmental policy attempts to make it easier or even sweeten the pot for lenders to modify loans, the “right to cure” period yielded a *tiny* percentage of loan modifications. In Massachusetts’ 2010 omnibus foreclosure legislation, the right to cure period was extended to 150 days unless lenders actually participated in loan re-negotiations. In practice, the right to cure period is now 150 days long.

Because of previous time periods when foreclosures were more common (nothing like the present crisis, however), people advocated for protection for those who had been the victim of mortgage scams. One of the outcomes of that organizing and legal work was the Dime ruling in Massachusetts<sup>23</sup>. This clarified that all occupants in homes post-foreclosure are tenants of the new foreclosing owner, the new landlord. While not extended the full range of rights of traditional tenants, they did become *tenants-at-sufferance*. Given evidence – some of which is summarized below – we now know much more graphically, how much of the damage from foreclosures is caused by the vacating of the home, both displacement of families and much farther reaching economic impacts of long-term vacancies on our communities and economy.

Massachusetts therefore entered this crisis with one better buffer to negative impacts of foreclosure than other states: post-foreclosure occupants had a right to eviction by court not just informal demands to leave (which are prone to becoming harassment) and landlords had to keep our housing stock habitable while occupied. In May of 2009, federal legislation extended protections for former tenants post foreclosure: it required the step before court eviction, known

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<sup>23</sup> From the last predatory lending foreclosure period of the early 1990s rights, Massachusetts law extended tenant status to occupants post-foreclosure such as fundamental tenant rights to habitability and to eviction through court, *Attorney General v. Dime Savings Bank*, 413 Mass. 284 (1992)

as a “notice to quit” letter, to provide 90 days not just a standard two to four weeks<sup>24</sup>. In 2010, Massachusetts unanimously passed historic protections for only former tenants to stay and pay rent to the lender-landlords post-foreclosure until resale to a non-lender third party<sup>25</sup>.

### Underestimates in Foreclosure Studies

Most of the research available to look at the impact of the foreclosure crisis was done early in or even before this foreclosure crisis became full-blown. It measured the impact of what we would now consider occasional foreclosures or reached all the way back to the more limited foreclosure crisis of the early 1990s. The figures coming out of those reports were daunting at the time. For instance, the Congressional Joint Economic Committee’s chart from 2007, *Coast to Coast, Home Prices Are Down and Families Have Lost Wealth From 2007-2009* (often quoted by members of the Mass Alliance Against Predatory Lending) on loss of housing wealth and the impact on spending patterns had averaged out to almost a \$2B loss per month to the overall Massachusetts state economy<sup>26</sup>. Or the commonly quoted 2005 study in Chicago, Apgar and Duda’s *Collateral Damage: the Municipal Impact of Today’s Mortgage Foreclosure Boom* that showed that every foreclosure cost the municipal government somewhere between \$5,600 and \$19,200 on average for a vacated, foreclosed property<sup>27</sup>. To the extent to which we have updated statistics, the statistics that most of those reports were based on show a gross underestimate of the real impact of the foreclosure crisis<sup>28</sup>.

In addition, the interactive impact of all of these negative financial and social effects was not apparent when the number of foreclosures was smaller. In updating research for our Commonwealth, there is also the potential, even though we are inserting the now actual figures for property loss, for instance, that we are still yielding an underestimate of the actual impacts of the foreclosure crisis; the multipliers before the worst of the crisis may also have been to o small.

Now recognized as underestimates, the statistics from those early studies were already so large and predicting such devastation that they were hard for policy makers to swallow<sup>29</sup>. Be prepared, then, that a number of the figures that we lay out in this report may seem even more unbelievable. Yet if we have learned anything from the last few years it is that our tendency to want to make very conservative estimates and shy away from the potential far-reaching impacts of the foreclosure crisis has not helped us. In fact, underestimates may have hurt our ability to act at the policy level in a timely way to even ameliorate the worst harms from this foreclosure crisis.

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<sup>24</sup> Protecting Tenants at Foreclosure Act, Pub. L. 111-22 (2009)

<sup>25</sup> Mass. Gen. Laws ch. 186A (2010)

<sup>26</sup> Joint Economic Committee, *Coast To Coast, Declining Home Prices And Rising Foreclosures Will Cost U.S. Families Over \$2.6 Trillion* (Apr 10, 2008).

<sup>27</sup> William C. Apgar and Mark Duda, *Collateral Damage: The Municipal Impact of Today’s Mortgage Foreclosure Boom*, report for Homeownership Preservation Foundation, Minneapolis, Minnesota (May 11, 2005).

<sup>28</sup> Joint Economic Committee, *Coast To Coast*,... (Apr 10, 2008).

<sup>29</sup> Joint Economic Committee, *Coast To Coast*,... (Apr 10, 2008).

## Foreclosure versus Vacancy Impacts

One last caveat regarding the studies available. In many states the legal foreclosure itself leads to direct vacating of the property. However, the impacts of foreclosure and the actual vacancy of a property are different. It appears that the vacating of the property itself may have more devastating long-term impacts on the occupants, the surrounding neighborhoods, and our economy as a whole.

An interesting side-implication of a very good 2005 Chicago foreclosure study showed that while homeownership can increase the investment of the occupants in the upkeep and quality of the home and neighborhood, home-ownership is not the determining factor as pervasively assumed<sup>30</sup>. This very rigorous study avoided some common assumptions and included numerous possible indicators in their very extensive multivariate regression analysis. The overriding contributing factor in emotional investment in and commitment to upkeeping a home, this study showed was *actually the length of occupancy*; what mattered was if a family had lived in their home for five or more years more than whether they owned the property or rented it.

Many of the studies that we reference in this report assume that foreclosure and vacating of the property are a single impact. We know that is not true. It is why the legislation passed in Massachusetts last session was so critical; as we make it possible for people to remain as responsible tenants and pay rent to the banks (while banks own these properties over much longer periods of time than any of us like), people's ability to stay long term as responsible tenants may be ameliorating some of the worst of the foreclosure crisis<sup>31</sup>. If we can extend the option to stay as tenants and pay rent to include former homeowners, we may actually be able take a huge bite out of the devastating social and economic impacts of the foreclosure crisis on our Commonwealth.

## Updated Measures of Impacts

### Property Value Loss & Loss in Property Taxes

The Congressional Joint Economic Committee and the Congressional Budget Office in 2007 put out two far-reaching reports in an attempt to project forward the impact of the foreclosure crisis; they correctly surmised the upcoming pivotal role of foreclosures in the economic future of the United States at the time<sup>32</sup>. The state-by-state analyses included by the Joint Economic Committee, *The Subprime Lending Crisis: The Economic Impact on Wealth, Property Values and Tax Revenues, and How We Got Here* charted the impact of loss in property value from subprime mortgage foreclosures and their cumulative impact on property values of surrounding

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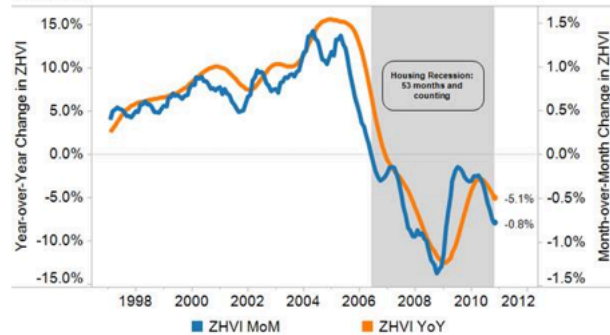
<sup>30</sup> Immergluck & Smith assessed the statistical impact of numerous demographic variables on the relationship between foreclosures and crime. While they tested the statistical impact of renting versus owning your home, that was not found to be statistically significant when length of occupancy was considered. It was whether an occupant had lived in the home for more or less than 5 years that mattered. This relationship may only prove significant in relationship to crime with further research but we suspect it is the stabilizing affect of length of occupancy that is the determining factor. Immergluck & Smith, *The Impact of Single-family Mortgage Foreclosures on Neighborhood Crime* (Received April 2005; revised October 2005), p.10.

<sup>31</sup> Mass. Gen. Laws ch. 186A (2010)

<sup>32</sup> Joint Economic Committee, *The Subprime Lending Crisis: The Economic Impact on Wealth, Property Values and Tax Revenues, and How We Got Here* (Oct. 2007).

## Home Value Declines Surpass Those of Great Depression

Figure 1: U.S. Zillow Home Value Index  
November 2010



properties and the

They based the projections on even though these projections for Responsible Lending Center for Responsible Lending properties with studies that local they multiplied the radius<sup>35</sup>. As has been projections turned out were almost exact

revenues<sup>33</sup>.

erty values d by the ere applied to ed on a couple ng properties; certain tive y value losses

How bad has the property value loss been so far? As of January 2011, Zillow.com, a key foreclosure statistical source, reported that as of November 2010 their national Home Value Index had fallen 26% since the peak in June 2006; the decline between the height of home values and their trough during the Depression-era between 1928 and 1933 was less at 25.9%.

Additionally, early on we had all assumed that the foreclosures were going to remain overwhelmingly of sub-prime mortgages; this seemed likely because of their weak underwriting criteria and of interest percentage jumps and concomitant payment shock – reflecting the huge jump in interest payments structured into those mortgages<sup>37</sup>. What none of us realized was that the loss in property value was going to be so

extraordinary it was going to impact people regardless of the type of mortgage they had gotten or the size of their down payment<sup>38</sup>. The year after the Congressional report, there was an updated study done by the Center for Responsible Lending in 2008, *Soaring Spillover: Accelerating Foreclosures* that projected three years forward on the impact of foreclosures of all kinds of

<sup>33</sup> Joint Economic Committee, *The Subprime Lending Crisis*, p.15.

<sup>34</sup> Joint Economic Committee, *The Subprime Lending Crisis*, p.12. The report chooses to use Moody's conservative national price loss estimate of 6.9% from 2007 – 2009 but references the Center for Responsible Lending estimate of close to 20%.

<sup>35</sup> Dan Immergluck & Geoff Smith, *The External Costs of Foreclosure: the Impact of Single-Family Mortgage Foreclosures on Property Values*, Housing Policy Debate, Vol. 17, Issue 1, 2006.

<sup>36</sup> Joint Economic Committee, *Coast To Coast...* (Apr 10, 2008).

<sup>37</sup> Joint Economic Committee, *The Subprime Lending Crisis*, pp. 12-13.

<sup>38</sup> See explanation first addendum below Zillow, "Massachusetts Home Prices and Home Values-Local Info," 2 Nov. 2009.

Source	Value '08-'09			Taxes '08-'09		
	Direct	Neighborhood	Total	Direct	Neighborhood	Total
Congressional Projections	1,476,377,624	1,369,513,998	2,845,891,622	12,734,953	11,813,167	24,548,120
CRL Projections 5/09	2009			2009		
CRL Projections 5/09	mortgages on neighboring property values			39. We include these Massachusetts spill-over		
	projections in our chart below. We added updated figures of the direct impact of foreclosure			losses on properties themselves.		
	2009-2012			2009-2012		
	37,801,800,000			326,071,130		

Wassmer's *Recent Pervasive External Effects* study looked at the impact on surrounding homes once the number of foreclosures had significantly increased based on the much denser number of foreclosures specifically in the City of Sacramento<sup>40</sup>. The much higher density of foreclosures for this study than the earlier studies yielded a much higher collateral impact on surrounding properties – given local prices, this multiple regression yielded a loss of \$48,827 or 31.9% per non-bank owned property as opposed to the \$14,891 per such properties for CA using CRL's 2009 multiplier<sup>41</sup>. Thus the .9% multiplier used in the Congressional study is also probably an underestimate; the more recent Center for Responsible Lending 2009 study on neighboring effects (from which we use projections in our chart) used even a slightly smaller multiplier<sup>42</sup>.

Having now taken these prospective studies from 2007 and 2008 and redone these figures retrospectively we know that the loss in property values was much higher than projected. Without including all the other multiplier effects that may be underestimated, we still come out with the above chart<sup>43</sup>.

### Consumer Spending Loss

The second Congressional report from 2007, *Housing Wealth and Consumer Spending* tried to look beyond the first<sup>44</sup>. It took the impact in property value loss and looked at the impact of changed equity on the spending patterns of households that owned those properties.

Their estimated impact is based on the historical reality that when a household purchases a home the equity in that home creates an economic safety net going forward. This economic safety net allows money that might otherwise have been put aside for long term housing expenses and

<sup>39</sup> Center For Responsible Lending, *Soaring Spillover: Accelerating Foreclosures To Cost Neighbors \$502 Billion In 2009 Alone; 69.5 Million Homes Lose \$7,200 On Average* (May 2009).

<sup>40</sup> Wassmer

<sup>41</sup> Wassmer, p.23

<sup>42</sup> CRL decided to use a smaller recent figure that was corrected in a statistical way that may have moved closer to a vacancy effect rather than an overall foreclosure impact on surrounding homes of 0.744 percent home value decline for each foreclosure within 1/8 of a mile, based on a study by Harding, Rosenblatt & Yao (2008). Center For Responsible Lending, *Soaring Spillover*, p.3.

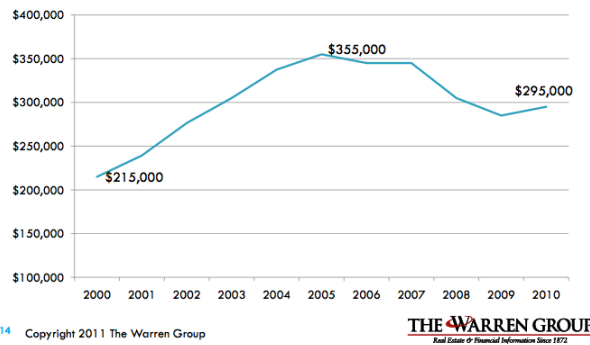
<sup>43</sup> Center For Responsible Lending, *Soaring Spillover*, p.4

<sup>44</sup> Congressional Budget Office, Background Paper, Housing Wealth and Consumer Spending (Jan. 2007).

## Annual Median Price For Mass. Single-Family Homes 2000-2010

retirement to be realistic; old age translates into less increase their spending w

Not only did Greenspan miss the housing bubble, top economic leaders in Massachusetts mistakenly thought housing would increase continuously forward<sup>45</sup> that misperception of the national economic recovery impacted the expectations of home-buyers during the early 2000s. Home-owners thus expected very high continued increases in their home equity based on increasing housing values; one study showed an expectation of 20% increase in property values every year for ten years<sup>46</sup>.



ward into one's core, households in their future.

The Congressional Budget Office (CBO) researchers collated all these economic studies and created a multiplier that we can use to project the opposite direction of the impact on spending when those expectations were brought back down to earth with the bursting of the housing bubble. This multiplier incorporates the loss of expectation in property values as well as the real budgetary impact on households that are now under water<sup>47</sup>.

<sup>45</sup> Alan Greenspan, testimony at Hearing of the House Committee on Oversight and Government Reform (Oct. 28, 2008).

<sup>46</sup> This CBO report surveys a number of studies on the range of public expectations of the increase in property values (compatible with economic pundits) during the first half of the first decade of this century including one from 2004 where 28% of home buyers in Boston, Los Angeles, and San Francisco expected an average 20% or more increase for each of the next 10 years. Congressional Budget Office, Background Paper, *Housing Wealth and Consumer Spending* (Jan. 2007), p.8.

<sup>47</sup> The original housing wealth projections were put forward by the Joint Economic Committee in 2007; they did projections from 2007 to 2009 in their report called *Coast to Coast Home Prices are Down and Families Have Lost Wealth from 2007 to 2009*. The methodology of these figures was based on projecting forward median house prices using data for single-family homes. Taking that data and multiplying it by a coefficient based on the Congressional Budget Office's estimates of the amount of spending usually freed up by a household once they have permanent ownership of their home.

The coefficient used as a multiplier was based on comparison of a number of studies both looking at the relationship between increased spending and homeownership in the past as well as the impact on increased spending of expectations about increasing home equity. In their study called *Housing Wealth and Consumer Spending January 2007*, they overview various economists' estimates of the impact of expected increased housing values on spending as well as direct correlation between home ownership, additional equity and increased spending. Having done an analysis of the range of both increased expectations and actual home equity and increased spending patterns, they came up with a very conservative coefficient that they used to multiply projected housing value differences to estimate changes in spending patterns.

Their figures were originally based on projections of the change in median house prices by the Federal Housing Finance Board for single-family homes and then the historic house price indexes from the Office of Federal

The estimate in the CBO Report was that the loss in property values from 2007 to 2009 in Massachusetts would be about 7.88%<sup>48</sup>; however, based on the Warren Group's actual figures of loss in property value multiplier impact Report for the C

Coast-to-Coast, Lost Wealth from 2007-2009		
Source	Median House Prices, Percentage change '07-'09	Change in Housing Wealth '07-'09
Congressional Projection	-7.88%	-58,926,193,556
Actual Massachusetts Values	-19.72%	-147,452,402,600

The figure from the CBO's report, *Housing Wealth* had come out to a loss of about \$2B per month from our state economy. Multiplied by what may yet turn-out to have been a conservative

coefficient, our new figures using the actual loss in property values of about 20% puts that figure **at slightly over \$4B per month from our overall state economy**. That is the loss of spending by regular people whose spending drives 70% of our economy<sup>50</sup>.

These two studies together show that the devastating impact on our economy is far beyond what gets captured by looking at simple job losses and implies that going forward we should not be overly conservative about the ongoing impact of the foreclosure crisis.

Housing Enterprise Oversight, which draws much of its information from Moody's economic projections. (Moody's not having a reputation as a radical risk-taking projection organization.) Even in their report on housing price analysis, the Joint Economic Committee acknowledged that Moody's projections of the amount of housing value loss were on the low side in comparison to other sources available. They then took these losses, compared them to household numbers for the various states based on the Census Bureau, and multiplied them by the above coefficient from the Congressional Budget Office.

These figures also represent loss in household value for single-family homes representative of the owner-occupied housing where the foreclosure crisis hit hardest initially. With the many multi-family homes in Massachusetts as well as larger multi-unit properties that are now losing a lot of value because of the jumbo loans crashing, we do not have a separate means to estimate that additional impact but it is going to be significant

<sup>48</sup> 7.88% loss from Property value report

<sup>49</sup> Timothy M. Warren Jr., slide presentation for CHAPA Breakfast Forum (March 23, 2011), slide 16.

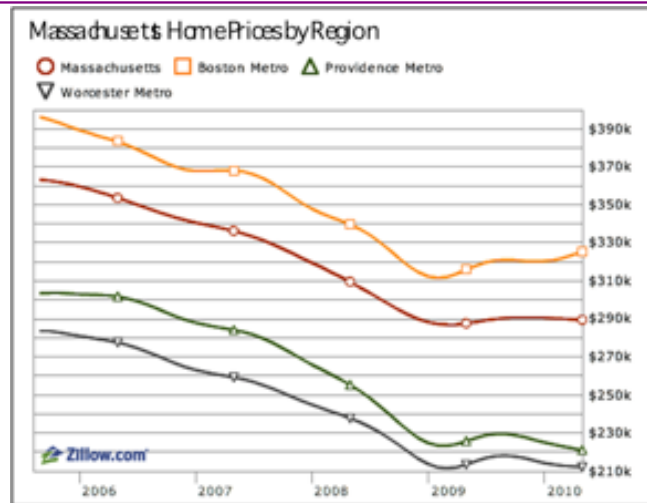
<sup>50</sup> When the US Market crashed in 2008, an economic fact apparently well-known among economists was repeated for the 1<sup>st</sup> time in the author's hearing by economists across the political spectrum: normally our economy is driven by 70% spending by people, 20% spending by the private sector and 10% by government. Among people, the less income a household has the more every dollar that comes in is spent and spent locally so it is the robust spending of those who mostly spend that drives our economy the most. Martin Crutsinger and Jeannine Aversa, "Weekly Jobless Claims Drop Below 500,000," *Forbes*, 25 Nov. 2009, 30 June 2009.

## Negative Equity

### Property Values and Stimulus

Negative equity represents not only another critical measure of the impact of the foreclosure crisis, but another piece of collateral damage to those who may never face foreclosure. “Negative Equity” is a term used to describe when a home owner or investor owes more on their mortgages Commonwealth, and the Zillow data graph on property value loss because while we had a peak and a trough before, it shows *property values have once again started to drop*<sup>1</sup>. The new dip was predictable given economic policy choices – stimulus – made at the federal level.

Beyond the national stimulus package for government spending – a central focus of state-level policy makers, there was also a stimulus to home purchasing a couple of years ago<sup>1</sup> the first time homebuyer’s incentive, which gave people a one-time \$8,000 tax credit for a new property purchase; a clunkers program that gave a \$6,500 tax credit to people who up most people to leverage because of the tightness in the these put the brakes on the continuing property value incentives ended a year ago. They accomplished exact initiative would be expected to do: they increased purchased.



than the value of the property itself. This status is also referred to as being “under water”.

Why is negative equity such a critical measure? Because it points to the likelihood of default on mortgage obligations. Equally importantly it measures the ability of the owner to sell the property; in this economy that can be especially important to get out from under an unaffordable increase in mortgage payments, be able to proactively move because of job opportunities or a conscious need to down scale the housing cost burden that their household may no longer be able to afford because of loss of job, wages, expressions of family stress such as divorce or in response to the ever increasing numbers of unaffordable medical bills or medical bankruptcies<sup>51</sup>.

<sup>51</sup> The number of medical bankruptcy filings in the Massachusetts rose from 7,504 in 2007 to 10,093 in 2009. Himmelstein & Woolhandler, Massachusetts Health Reform Hasn't Stopped Medical Bankruptcies: Harvard Study

While some sources downplay the significance of negative equity, saying that property values will rebound<sup>52</sup>, this housing price crash may be different. In the past, the property value loss with the burst of now comparatively small housing bubbles, housing values return to slow growth and regain the previous inflated value; in the 1980s- 1990s, housing values took 12 years to regain the height of the values during the previous housing bubble<sup>53</sup>. Given the anomalous increase in property values between 2002 and 2007, negative equity is likely to be the limiting economic reality for many home owners for two, three or possibly four decades; prices returning to the historically unheard of levels reached at their height in 2007 in less time is unrealistic. Negative equity and its impacts are not only projected to increase in the coming year<sup>54</sup> but are likely to continue impacting the ability of households in Massachusetts to spend at previous rates, move as necessary or simply meet their high debt payments on a hugely overpriced debt in comparison to the value of their home.

Nationally, according to CoreLogics, on average all states were experiencing more negative equity in 2009 than they are now based on figures at the end of 2010<sup>55</sup>. In 2009, Massachusetts as a whole was experiencing a negative equity rate of over 21.7% and a near negative equity rate of 25.8%<sup>56</sup>. (Near negative equity is the term used for properties where the percentage of [debt](#) is between 95% and 100% of the stated property value<sup>57</sup>. It represents a circumstance in which the household is close enough to negative equity that sale and repurchase is almost impossible).

Their end of 2010 report shows Massachusetts sitting at a 15.3% negative equity and a 3.5% near negative equity share<sup>58</sup>. 15.3% negative equity is a serious percentage not seen previous to this huge foreclosure crisis for many decades. Because the rise and fall of negative equity is so dependent upon property value loss, the decrease in negative equity in 2010 was an expression of the slowdown in property value losses<sup>59</sup> that protected our property owners from the deep level of 2009's negative equity. As evidenced in the charts above, property values that were plummeting from 2007 to 2009 smoothed out or in some cases increased slightly in 2010.

However, those property values have now returned to decline<sup>60</sup>. The expectation is that our now increasing percentage of negative equity nationally is a reflection of price declines that occurred during the fourth quarter of 2010. CoreLogics' most recent report, from the last quarter of 2010,

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<sup>52</sup> Willen and his fellow Boston Federal Reserve researchers posit an economic equation they designed to capture decision-making variables for borrowers in whether to continue to try make foreclosure payments. They make an underlying assumption that property values will rebound in a reasonable number of years so eventually the dollars invested in a home return without addressing the historically anomalous nature of this staggering housing bubble. Paul Willen, *Making Sense of the Subprime Crisis*. Boston, The Research Bureau, (Nov. 13, 2008). Print.

<sup>53</sup> Kristopher Gerardi, Andreas Lehnert, Paul Willen & Shane Sherland, *Making Sense of the Subprime Crisis* (Federal Reserve Bank of Boston Public Policy Discussion Papers, No. 09-1, Feb. 22, 2009). P. 68

<sup>54</sup> Press Release, CoreLogic, *New CoreLogic Data Shows 23 Percent of Borrowers Underwater with \$750 Billion Dollars of Negative Equity Proposed Down Payment Rules Will Impact Already Hard-Hit States* (Mar. 8, 2011), p.2

<sup>55</sup> CoreLogic, *Summary of Second Quarter 2009 Negative Equity Data from First American CoreLogic* (August 13, 2009) & Press Release, CoreLogic, *New CoreLogic Data Shows 23 Percent*.

<sup>56</sup> CoreLogic, *Summary of Second Quarter 2009*

<sup>57</sup> "Near negative equity is when mortgages are within five percent of being in a negative equity position. CoreLogic, *Summary of Second Quarter 2009*, p.1

<sup>58</sup> Press Release, CoreLogic, *New CoreLogic Data Shows 23 Percent of Borrowers Underwater*, p.3

<sup>59</sup> Zillow, "Massachusetts Home Prices and Home Values-Local Info," 2 Nov. 2009

<sup>60</sup> Zillow, "Massachusetts Home Prices and Home Values-Local Info," 2 Nov. 2009

Region	Negative Equity		Near Negative Equity	
	Percent	Number	Percent	Number
Springfield	11.2	17,294	3.8	5,789
Barnstable	10.5	9,831	2.4	2,259
Boston-Quincy	16.6	65,169	3.7	14,442
Cambridge-Newton-Framingham	11.5	37,925	3.1	10,398
Peabody	19.7	33,653	3.8	6,515
Worcester	23.2	42,669	4.5	8,345
Providence-New Bedford-Fall River	20.4	70,394	3.8	13,063

includes the fol meaning that th points<sup>61</sup>.” *Almost ten percentage points would put Massachusetts negative equity figures above the height of our percentage of negative equity in 2009.* nt in 2011 is 10 percentage

An additional concern is created by the tightening of credit and the expectation that new guidelines in mortgage lending for loans to be able to be securitized will require a 20% mortgage down payment<sup>62</sup>. Since most property purchases are done by those who already own a home, we have to look at the possibility that anyone who does not have at least 80% equity in their home will be unable to sell and move to a new home; they will not retain sufficient profits from sale of their existing home to move to a comparable home elsewhere. This reality will trap significant percentages of our state population in a home that they know is unaffordable in the future given the present economic circumstances of their households or trap them from being able to move to where they might be able to get comparable or better work than they may now have (or had before recent losses in wages, benefits, or even the job itself).

As of the fourth quarter of 2010, a third of Massachusetts home owners did not have sufficient equity (at least 80% equity in their home) to be able to sell and retain enough profits to move to a comparably priced home at this time<sup>63</sup>. This percentage of those unable to move and afford a comparable repurchase is likely to increase as property value declines accelerate in the next year.

For more detailed distribution of negative equity, see here the figures for negative equity and near negative equity for various Metropolitan Statistical Areas and municipalities in Massachusetts<sup>64</sup>.

## Expenses to Municipalities

Perhaps some of the entities in our state hardest hit by the foreclosure crisis are our cities and towns. While the statewide figures for loss in household spending were staggering, arguably the place where that and other impacts are felt the most are in the local economies of municipalities and the local governments that are responsible for tending the costs of individual foreclosures to upkeep and services: the loss of tax revenue when property values plummet and the multiple costs to a disintegrating quality of life, fabric of community and local economy.

<sup>61</sup> CoreLogic, *New CoreLogic Data Shows 23 Percent of Borrowers Underwater*, p.2

<sup>62</sup> CoreLogic, *New CoreLogic Data Shows 23 Percent of Borrowers Underwater*, p.2

<sup>63</sup> CoreLogic, *New CoreLogic Data Shows 23 Percent of Borrowers Underwater*, p.2

<sup>64</sup> Press Releases, CoreLogic, Real Estate News and Trends (May 10, 2010): Barnstable; Boston-Quincy; Cambridge-Newton-Framingham; Peabody; Providence-New Bedford-Fall River RI; Springfield; Worcester.

While a number of studies have tried to enumerate the type of costs that drag on municipalities, only a few studies have actually tried to quantify those costs. The most famous of which is the Apgar and Duda Study<sup>65</sup> in Chicago from the early 2000s although its estimates are pre- the full blown impact of this crisis.

In their 2005 study, *Collateral Damage: The Municipal Impact of Today's Mortgage Foreclosure Boom*, William Apgar and Mark Duda looked beyond the immediate impacts on home owners and direct participants in the financial industry to look at municipal impacts; municipalities end up paying for a range of expenses. Specific aspects that Apgar and Duda looked at measuring for 26 foreclosures fell into five different scenarios that they costed out for municipalities: from one where a property is vacant but properly secured to a scenario where a property has been vandalized and a fire ensued. These costs ranged from \$430 to \$34,199<sup>66</sup>. The identified municipal expenses were increased policing and fire suppression, demolition contracts, building inspections, legal fees associated with the municipalities stepping in to deal with foreclosed and/or abandoned buildings and ongoing expenses associated with managing the impact of the foreclosure process. In addition, the crime impacts that they identified on a municipality included everything from quality of life, impacts from empty foreclosed properties, gang activity, drugs, prostitution, arson, rape and even murder. Even after foreclosure there were costs of securing or demolishing a unit, clearing trash and underbrush from the lot. Frequently leading up to foreclosure and certainly after, municipalities lose income from unpaid water, sewer and tax bills. There is also the street affect of becoming unattractive on households and surrounding neighborhoods and businesses, impacting property sales and property tax receipts.

Apgar and Duda's first scenario was where a property was vacated and then properly secured by the next owner. The scenarios of more relevance to us are their 2<sup>nd</sup> and 4<sup>th</sup> scenarios<sup>67</sup>. The 2<sup>nd</sup> scenario was vacant and unsecured properties which they figured cost a municipality \$5,358 per such vacancy and included the costs of filings in court, tracking the property itself, doing building inspections, checking on the vacant property registry, noticing the property, boarding it up and liening it and the cost for administrative hearing on the inaction by the new owner. The 3<sup>rd</sup> and 4<sup>th</sup> scenario include different roads to demolition. However, the primary circumstances that we're looking at measuring and their impact on the cities and towns of Massachusetts have not primarily been about demolition; however, if we look at the 3<sup>rd</sup> and 4<sup>th</sup> scenarios in terms of the costs for a vacant property that's not secured where ongoing work has to be paid for or a property that has been vacant and abandoned before foreclosure is complete. The more expensive of these scenarios without the demolition costs lists all of the expenses in their 2<sup>nd</sup> scenario that I described but in addition includes the loss of property taxes, utility and water expenses and the ongoing maintenance of the property in terms of lawn upkeep, trash removal, etc. Those expenses costed out in Apgar and Duda's study amount to almost \$9,000 per property.

This study was the simplest estimate of the direct costs to the City for its services maintaining these properties. It did not include more than a minimal amount of police having to pay attention to the property; it does not address the increased crime associated with such properties. The multiplying impacts of factors like increased crime have been better documented (for instance, a

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<sup>65</sup> Apgar and Duda, *Collateral Damage*.

<sup>66</sup> Apgar and Duda, *Collateral Damage*, pp. 13-16.

<sup>67</sup> Apgar and Duda, *Collateral Damage*, pp. 12 & 25.

2.33% increase in violent crime per 1% increase in foreclosures<sup>68</sup>) and the Apgar estimate for the assumed impact of increased fires; although in Massachusetts, we were not able to find clear foreclosure related increase in fires in this crisis so far.

The requirements in the Vacant and Foreclosing Properties ordinance passed by the City Council of Worcester is indicative of the kinds of expenses that cities are trying not to incur on behalf of foreclosing lenders; the ordinance was a first of its kind requiring a cash bond from foreclosing lenders for the City to draw down billed expenses from. The ordinance reinforced existing state sanity code as well as specifying requirements particular to foreclosed or vacant properties. They can bill for unpaid water, sewer and taxes but also spelled out upkeep and maintenance of grounds and buildings, proper securing of property including round the clock watches if necessary, floor-plans and hazardous contents in case of fires in larger structures, winterizing, draining of standing water to avoid mosquitoes, proper posting of ownership and contact information on buildings, maintenance of liability insurance, and general upkeep in accordance with sanity codes. The costs associated with any of these will require a study to quantify but the list is suggestive.

But the most damaging impact of the foreclosure in some ways to the financial life of our city government is not the direct loss in property value of the foreclosures themselves, but the spill-over affect in loss of property values in surrounding homes. A few studies have worked to quantify this effect which is significant and detailed in terms of the impact on our state above, but has gone unmeasured in previous crises. Those property value losses not only impact the home values of neighbors and undermine the fabric of neighborhoods but also directly hurt municipal revenues through loss of property taxes. Municipal jobs and services suffer from tax-loss driven cuts but also from increased demand created by foreclosed properties. Local businesses and a neighborhood's overall economic life is hurt from decreased spending and the decrease in municipal government services and investment now needed for foreclosure costs.

We are lucky here to include release of a new study that addressed specifically the costs incurred by the vacating of foreclosed properties and their impact on the residents, direct and indirect victims of the foreclosure crisis and the city of Boston's municipal costs themselves. The author, Sam Simon did analysis that specifically sought to separate the economic impact of vacated foreclosed properties from simply the foreclosures themselves. The state has already taken steps to ensure more occupants can stay in their homes post-foreclosure but could legislatively enable most of the rest of occupants to be able to stay until properties are re-sold; this study shows much of the harm of foreclosures may be from the emptying and neglect of properties post-foreclosure.

In *Vacant Spaces: the external costs of foreclosure-related vacancies in Boston*, Simon<sup>69</sup> quantified three aspects; the cost of securing vacant properties, the spill over affect in loss of property values and tax base, and a new quantification of the widespread costs of crime.

Considering the costs of just these three harms from a vacancy, Simon demonstrates an *average cost to the City of Boston and its residents of between \$157,058 and \$1,028,862 per vacant foreclosed property*. This figure includes an average of \$2,007 of lien costs per vacancy;

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<sup>68</sup> Immergluck and Smith, *The Impact of Single-family Mortgage Foreclosure on Neighborhood Crime*

<sup>69</sup> Sam Simon, *Vacant Spaces: The External Costs of Foreclosure-Related Vacancies in Boston*. June, 2011

however, no liens have been filed in court for more than a year and a half even as vacancies have gone up and may have been vacant longer so average costs may have increased<sup>70</sup>. Total cost of a vacancy includes a conservative average of \$30,000 in costs associated with the average increases in crime: composed of roughly \$13,000 in direct harm to victims and \$16,316 in costs of investigations, trying defendants and incarcerations of those convicted<sup>71</sup>.

Finally, the huge impact on neighbors and neighborhoods of loss in property value (spill-over effect just related to vacancies not the total impact of foreclosure), Simon argues plausibly should include impacts on 1-3 family houses (not just single families) and should be based on an average housing value across Boston: totaling \$996,744 per vacancy. If we only assume spill-over effect on single family homes (which amount to only a little over 18% of Boston properties<sup>72</sup>) and assume vacancies only in the already hardest hit neighborhoods, the vacancy related spill-over effect is still \$125,122 per vacancy. To the tax revenue loss from these property value drops, Simon adds the tax loss from the foreclosure process itself (generally estimated at 22%<sup>73</sup>). These property value losses multiplied by Boston's property tax rate of 1.279 percent<sup>74</sup> yields a tax revenue loss of between \$2,400 and \$13,730 to the City coffers per vacancy.

Without including some elements Apgar sought to measure or unmeasured impacts like those enumerated in Worcester's ordinance billing foreclosing entities or loss in spending and impacts on small businesses, Simon's somewhat conservative *per vacant foreclosure* totals are:

- Boston taxpayers lose \$20,723 to \$31,053
- Crime victims lose an additional \$12,813
- Neighboring home owners lose \$157,058 to \$1,028,862
- Foreclosed families displaced uncalculated

Just to get a sense of the magnitude of the problem, *if every one of the 821 foreclosures completed in 2010 led to a vacancy, Boston's economy would have lost \$844,695,702 to just these three quantified aspects.*

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<sup>70</sup> Project Pride is Boston's Inspectional Services Department's Community Sanitation Division. Information about costs to Boston for securing vacated properties from Simon's telephone interview with Patty Binda, Inspectional Services Department Legal Division (April 19, 2011)

<sup>71</sup> Simon bases total crime expenses for burglary, larceny and aggravated assaults for the percentage of increase of each crime type per foreclosure by multiplying the average costs by the average percentages of people who progress through each step of the prosecution process. Simon, *Vacant Spaces*, (June, 2011) pp.12-17.

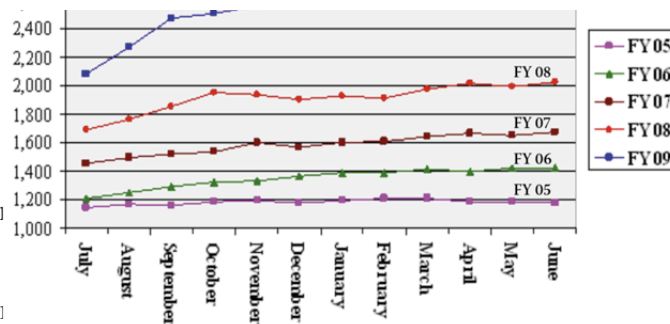
<sup>72</sup> U.S. Census Bureau, Table B25024: Units in Structure: Boston City Massachusetts, 2005-2009 American Community Survey

<sup>73</sup> This is a well-documented impact – for one source, A. Pennington-Cross, *The Value of Foreclosed Property*, 28 J. Real Estate Research 193, 197-78 (April-June 2006).

<sup>74</sup> City of Boston, *Property Tax Facts and Figures: Fiscal Year 2011*.

## Homelessness

Another impact of the foreclosure crisis that is hard to miss is increasing homelessness. The chart shows increasing homelessness while tracked and posted publicly by the Department of Transitional Assistance<sup>75</sup>. The end of 2009 saw the official figures for family homelessness both in shelter and in hotels and motels around 3,000<sup>76</sup>. Official homeless figures we know do not measure the



full extent of homelessness by any means, but they are figures the state tracks through their own shelters. At this point, these figures show that the homelessness crisis is expanding with 3,290 families total either in hotels and motels or in congregate shelters, scattered site shelters, and non-motel placements for the state<sup>77</sup>. Figures for the real homeless count, of course, are much, much higher, with folks doubled up with friends or even worse staying in their cars.

Given how costly it is to shelter people instead of making sure, for instance, that people could stay in their own home post foreclosure seems obvious. While the direct connection between increasing homelessness figures and the increasing displacement because of the foreclosure crisis is still mostly anecdotal, what is clear from what research has been done is that most folks do not go directly from losing their home in a foreclosure to a homeless shelter or hotel paid for by the state; however, after a couple of steps in between, maybe crashing on a family member's couch for a while and then trying to get a roof over their head patched together by any means, lots of people do end up in the state's homelessness system<sup>78</sup>. Besides the financial costs which we know can run close to \$25,000 to \$30,000 a year<sup>79</sup>, the cost long term to families, especially impacts on children, have been well documented elsewhere<sup>80</sup>. These costs should be unacceptable when we have lots of other alternatives like arresting the foreclosure crisis.

<sup>75</sup> Commonwealth of Massachusetts, Massachusetts Dept of Transitional Assistance, Homeless Family Caseload 2005–2009 (Boston: DTA, 27 Dec. 2009).

<sup>76</sup> Kelly Turley, Massachusetts Coalition for the Homeless, 2009 testimony to Massachusetts Legislature

<sup>77</sup> Communication from Kelly Turley, March 21, 2011 from statistics collected by Massachusetts Coalition for the Homeless from Massachusetts Department of Housing and Community Development reports.

<sup>78</sup> *Foreclosure to Homelessness 2009; the forgotten victims of the subprime crisis*, A joint report from the National Coalition for the Homeless, the National Health Care for the Homeless Council, the National Alliance to End Homelessness, the National Association for the Education of Homeless Children and Youth, the National Law Center on Homelessness & Poverty, the National Low Income Housing Coalition and the National Policy and Advocacy Council on Homelessness (2009).

<sup>79</sup> Dennis P. Culhane and Thomas Byrne, *Reducing Family Homelessness in Massachusetts*, the Paul & Phyllis Fireman Foundation, published 2010

<sup>80</sup> Based on low 2006 projections of 32,976 Massachusetts foreclosures, Lovell & Isaacs estimated 27,200 children would be directly impacted. Given the state's foreclosures in reality impact two households on average and to date we have 44,100 recorded foreclosures, roughly 72,750 children so far are directly impacted. Among harms to children, they quote from 1993 findings of another researcher Rumberger that changes in school and home can reduce by more than 50 percent a student's chances of graduating – perhaps 36,375 Ma children so far. Phillip Lovell & Julia Isaacs, *First Focus: The Impact of the Mortgage Crisis on Children and Their Education* (Apr. 2008).

The number of adults still [officially homeless](#) seems to be around 3,000 at most recent count and there are an additional 2,000 families currently in short term housing, subsidized through the Flex Funds of the [Commonwealth's Emergency Assistance funds](#)<sup>81</sup>. The homeless crisis is continuing to increase significantly even though the state put more money aside specifically to try to decrease the number of homeless individual adults<sup>82</sup>. Like many of the other collateral damages from the foreclosure crisis, this is certainly one preventable impact we can neither afford financially nor socially as a state.

In addition, there are also increasing numbers of families seeking and living in domestic violence shelters<sup>83</sup>. Increases in domestic violence calls and other statistical increases started before the actual market crash and economic down turn<sup>84</sup>. The stress impact on families connected to the foreclosure crisis is well documented: increased divorce and probably the increase in domestic violence calls is connected. Housing stress is certainly a contributor to domestic violence but there are no studies yet to show direct causality to foreclosure.

### Rents and Rental Vacancy Rates

Where else might these families go? Normally when housing prices drop overall rental costs go down<sup>85</sup> and with the number of displaced families, normally, the rental vacancy rate would be increasing because of turnover if nothing else. In this period of plummeting prices, these usual corollary effects have not happened. Massachusetts is seeing a very low vacancy rate and rents have not dropped. Therefore, these displaced families do not necessarily have other places to go. Especially if you are a former homeowner whose credit has been seriously damaged trying to hold onto an unaffordable mortgage, you are entering the rental market seriously handicapped.

Contrary to historical trends of rents dropping along with property values, rents are increasing. According to the Joint Center for Housing Studies at Harvard University's 2011 report, [the percentage of](#) renters [spending](#) more than half their income on housing has increased to the highest level in over fifty years – over 26 percent of renters, including 7.5 percent of moderate-income renters<sup>86</sup>. Nationally, rental prices soared 22 percent in 2009 from a decade earlier<sup>87</sup>. The percentage of renters went up 8 percent nationally between 2007 and 2009<sup>88</sup>.

According to the Federal Reserve of St. Louis's figures, our state has seen lower rental vacancy rates just before the last couple of economic downturns. Through this downturn, however, our

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<sup>81</sup> Turley, statistics collected from Mass DHCD

<sup>82</sup> We applaud the Commonwealth's commitment to the savings in both human suffering and economic costs to Housing First codified in the passage of legislation in 2008. However, increasing homelessness from the foreclosure crisis undermines the success of this commitment. Massachusetts Housing and Shelter Alliance, *Home & Healthy for Good: A Statewide Housing First Program Progress Report*, (Boston, June 2009).

<sup>83</sup> Turley, statistics collected from Mass DHCD

<sup>84</sup> Mary R. Lauby and Sue Else, *Recession Can Be Deadly for Domestic Abuse Victims*, The Boston Globe (December 25, 2008)

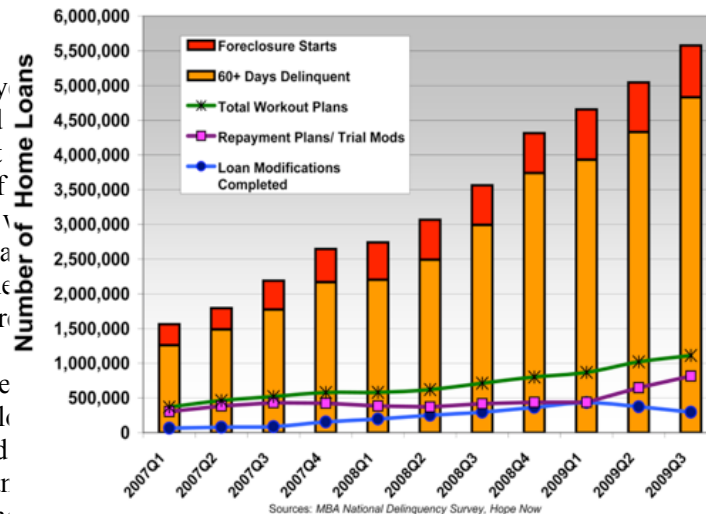
<sup>85</sup> Kristopher Gerardi, et al, *Making Sense of the Subprime Crisis* (Federal Reserve Bank of Boston Public Policy Discussion Papers, No. 09-1, Feb. 22, 2009)

<sup>86</sup> Dina ElBoghdady, *Affordable rental housing scarce in U.S., study finds*, The Washington Post, Apr. 26, 2011.

<sup>87</sup> ElBoghdady, *Affordable rental housing*

<sup>88</sup> ElBoghdady, *Affordable rental housing*

Homes At Risk vs. Total Loss Mit Activity



vacancy rate has stayed expected in this kind 6.3% – 6.5% the last are very low<sup>90</sup>. As of the list of five states v as of July of 2010 pla absolute lowest in the the country at six per

The low vacancy rate the banks post-forecl over time as opposed free up rental units ar be any time soon. Therefore, families and individuals are getting squeezed as more and more of our housing stock is being taken off the market and sitting vacant and degrading.

at would be ig between yancy rates nusetts was in %<sup>91</sup>. Figures of the s well across

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## Other Factors in Impacts on States

### Federal Interventions and Lessons from Elsewhere

Early in the foreclosure crisis, Massachusetts Attorney General Coakley was ahead of the curve in her study of voluntary loan modifications, *Lenders and Servicers' Promises of Loan Modifications in Massachusetts are Not Matched by Meaningful Actions That Promote Sustainable Loans*; she showed minimal modification rates after the initial imposition of a right to cure period in our state<sup>93</sup>. While her results made it clear that voluntary loan modification programs by the lenders were having abysmally small success rates, that lesson has somehow continued to be lost particularly upon federal policy makers.

<sup>89</sup> Federal Reserve Bank of St. Louis, *Rental Vacancy Rates for Massachusetts (MARVAC)*.

<sup>90</sup> Selma Lewis, *Second Quarter 2010 Homeownership, Rental and Homeowner Vacancy Rates*, [http://www.realtor.org/research/economists\\_outlook/commentaries/commentary\\_homeownership\\_0810](http://www.realtor.org/research/economists_outlook/commentaries/commentary_homeownership_0810)

<sup>91</sup> Property-Investing.org, *States with Lowest Rental Housing Vacancy Rates in Q3 2009*, <http://www.property-investing.org/housing-vacancy-rates.html>.

<sup>92</sup> Lewis, *Second Quarter 2010*

<sup>93</sup> Martha Coakley, "Lenders and Servicers' Promises of Loan Modifications in Massachusetts are Not Matched by Meaningful Actions That Promote Sustainable Loans." Testimony, U.S. House Financial Services Committee, (September 17, 2008).

Included here is a 2010 chart from the Center for Responsible Lending showing delinquency rates and foreclosure rates in comparison to attempted and successful loan modifications<sup>94</sup>. The results from our own Attorney General's study early in the crisis are replicated repeatedly with the results of every voluntary loan modification program that has been promulgated federally<sup>95</sup>.

While the state government's hands are tied in terms of some policy interventions fundamental to changing the underlying landscape of the foreclosure crisis, there are many things the state can still do. Yes, the federal government is the only **entity** that has the legal power to regulate and mandate certain kinds of behavior from the lenders, state and city programs have had some significant successes across the country. In terms of waiting for the federal government to intervene and shift the underlying dynamics of the foreclosure crisis, we continue to see non-binding policies with repeatedly very limited results being implemented at the federal level.

Most recently the regulating agencies were projected to introduce policies that would finally begin to limit the most egregious misdeeds by the largest lenders. We have seen numerous headlines underscoring everything from affidavits that were not legally sworn to, loss of paperwork to legitimize transfers of ownership of mortgages, legal irregularities in the filing of deeds and other paperwork, etc<sup>96</sup>. The most recent round of regulatory policies that we expected **to be** promulgated were extremely limited in scope failing to address these wide-ranging yet fundamental illegal procedures that lenders themselves have admitted to having engaged in<sup>97</sup>.

In addition, potentially holding up action on the state and city level have been hopes that were pinned on the negotiations between the Attorneys General and the major lenders<sup>98</sup>. A number of the most forward-looking aspects of those agreements have been challenged on the lenders' side; principal reduction necessary to bring prices in line with real values and often to make loan modifications work for the long run have been publicly opposed by, at least, JP Morgan Chase, Bank of America, Citibank and Wells Fargo<sup>99</sup>. While our Attorney General continues on the front-line of fighting to bring the lenders' actions in line with existing law and protecting our residents' home ownership rights and the interests of Massachusetts residents who invested, the hopes for a cutting edge agreement by the consortium of Attorneys General and the biggest lenders are fading<sup>100</sup>. A number of items in those draft agreements are simply requiring that

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<sup>94</sup> Center for Responsible Lending, *Mortgage Repairs Lag Far Behind Foreclosures* (Dec. 4, 2009).

<sup>95</sup> As of May of 2010, figures released for the Home Affordable Modification Program "show that roughly 300,000 borrowers have received a permanent modification under the program. Meanwhile, foreclosure filings continue at a rate above 300,000 for the 14th straight month, according to Realty Trac ." Press Release, National Consumer Law Center, *Foreclosure Prevention Gains Little Ground* (May 18, 2010)

<sup>96</sup> Marcy Gordon, *Mortgage industry problems broad, Iowa AG says*, Associated Press (November 16, 2010); Abigail Field, *Ohio Judge Demands More Information in Robo-Signed Foreclosure Cases*, DailyFinance (November 8, 2010); Danny King, *Goldman Sachs Fined \$650,000 by FINRA for Disclosure Delays*, DailyFinance (November 9, 2010)

<sup>97</sup> Press Release, National Consumer Law Center, *OCC Again Chooses Interests of Banks Over Consumers and States* (May 26, 2011).

<sup>98</sup> David McLaughlin, *Banks await foreclosure deal's financial terms as states split*, Bloomberg News (April 20, 2011); Moe Bedard, *Issue in Talks: Loan Remedies*, loanworkout.org (March 30, 2011)

<sup>99</sup> David McLaughlin, *Banks await foreclosure deal's financial terms as states split*, Bloomberg News (April 20, 2011); Loren, *Banks Fight Mortgage Principal Reduction*, Denver Real Estate Blogger (March 31, 2011)

<sup>100</sup> Brady Dennis, *Foreclosure settlement divides state attorneys general*, Washington Post (June 7, 2011)

lenders begin to adhere to existing legal practices such as only signing affidavits that the signer can swear to<sup>101</sup>. A number include new reporting requirements to create more transparency about the legal transactions by the largest lenders and their legal and contractual compliance. Without the more forward-looking aspects that have been challenged, the agreement with the Attorneys General is not going to aid in quickly reversing the foreclosure situation in our state.

On the other hand, Massachusetts has been in the forefront with some of our legislative policy initiatives across the country, including our extension of tenant protections to former tenants post foreclosure in buildings taken back for ownership by the lenders themselves<sup>102</sup>. In other states' and municipalities' policies around mandatory mediation have been showing significant success. The positive impacts of states that have a judicial foreclosure system are now more clearly documented. Here are lessons Massachusetts can draw on.

These recent reports underscore the lessons that we have to take from the now several years of federal policy choices: we cannot wait for the federal government or regulators to use their more extensive powers to fundamentally change the underlying landscape to remedy recent mortgage lending practices in our country.

### Effect of Mandatory Mediation

Given the relative failure of voluntary loan modification programs and the ensuing larger losses from mostly unmitigated foreclosures, are their policies that are leading to fewer foreclosures?

Mandatory mediation where it exists has often had a significant impact. In jurisdictions with mandatory mediation laws, approximately half of homeowners respond to offers to mediate. On average, over 50% of homeowners and lenders who sit down to third-party mediation are able to find an agreement that keeps the homeowner in the home<sup>103</sup>. When Connecticut moved from an opt-in to automatically scheduled mediations, participation by homeowners rose to 75%, with continuing results of 60% staying in their homes<sup>104</sup>. Sixty to seventy percent of Philadelphia's homeowners go to the initial session with more recent results for the lower income segments showing at least 60% remaining in their home long-term<sup>105</sup>. Over 20 cities or states require foreclosure mediation (such as Maine, Maryland, Nevada, Vermont, and Providence, RI)<sup>106</sup>. Additional preferable outcomes to foreclosure such as short sales, when included, further increase the measurable success of mediation programs<sup>107</sup>.

Higher success rates have been demonstrably linked to particular aspects of more successful programs. Practices like legal training for mediators, face-to-face sessions, transparency of policy procedures from lenders and in advance provision of financial paperwork from both sides

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<sup>101</sup> Moe Bedard, *Issue in Talks: Loan Remedies*, loanworkout.org (March 30, 2011)

<sup>102</sup> Protecting Tenants at Foreclosure Act, Pub. L. 111-22 (2009).

<sup>103</sup> Alon Cohen and Andrew Jakobovics, *Now We're Talking: A Look at Current State-Based Foreclosure Mediation Programs and How to Bring Them to Scale* (June 2010), p.5

<sup>104</sup> Cohen and Jakobovics, *Now We're Talking*, p.8

<sup>105</sup> Cohen and Jakobovics, *Now We're Talking*, pp. 21-22

<sup>106</sup> Cohen and Jakobovics, *Now We're Talking*, pp. 1-3

<sup>107</sup> Cohen and Jakobovics, *Now We're Talking*, pp. 1-3. 8. 21-22

have been key building blocks of success<sup>108</sup>. The more targeted efforts put into reaching homeowners to inform them of their ability to participate has shown marked increases in participation and success<sup>109</sup>. Finally, although the proven decrease in financial losses to banks that avoid foreclosure (even if loan modifications include principal reduction) might be incentive enough, the existence of judicial foreclosure as the alternative to unsuccessful mediations has been shown to have a significant statistical impact on the success of mandatory mediation programs themselves<sup>110</sup>.

## Conclusion

Research shows that the foreclosure crisis is now impacting not only every community in our state but every constituency that participates in our economy. The evidence shows farther reaching impacts and deeper concomitant harms of the continuing foreclosure crisis. While most indicators point to a still worsening crisis, some will dispute the causes of the leveling out of the foreclosures or deeds at any one time period. What we must tackle through all of the means available to us as state and municipal governments is the seriousness of losses to the economic activity of our residents; in our worst months, this totals a proven \$4.1B per month.

In addition, what will it mean to our economic future if 75% of mortgages and deed filings by the major lenders in our registries are invalid? Can we allow the unmitigated impact of a vacated foreclosed property costing a municipality and its residents many tens of thousands of dollars (for Boston estimated between \$150,000 and over \$1M) per such vacated foreclosure? Especially, given our prison system's continually rising costs and the impact on our residents' daily lives of crime increases of 10.1 % in burglary, 5.6% increase in larcenies, a 14.6% increase in aggravated assaults per one percent increase in foreclosures<sup>111</sup>?

Clearly our state budget cannot afford the costs of increasing homelessness (regardless of attempts made to limit the state's responsibility in sheltering those who are homeless). Nor can we afford the additional cost of measurable increases in ill-health per 100 additional foreclosures, nor tens of thousands more children not completing high school. These are in addition to the unaffordable impact on the loss of state revenue from continuous undermining of our overall state economy. In contrast, Pennsylvania actually improved their credit rating by mitigating foreclosures<sup>112</sup>.

MAAPL's summary of existing research merely serves to underscore the staggering size of the foreclosure crisis' negative impacts, the dangers of its continuing – even if to a lesser extent – and the straightforward need for urgent action; this is not just necessary for those who

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<sup>108</sup> Alon Cohen, *Foreclosure Mediation Going Forward States Need to Expand Their Programs if the Federal Government Steps Back* (April 2011), p.2

<sup>109</sup> Cohen and Jakabovics, *Now We're Talking*; similarly, contact between borrowers and their lenders increased likelihood of repairing a delinquency in general, Amy Crews Cutts & William A. Merrill, *Interventions in Mortgage Default: Policies and Practices to Prevent Home Loss and Lower Costs* (Freddie Mac Working Paper # 08-01, Mar. 2008).

<sup>110</sup> Cohen and Jakabovics, *Now We're Talking*, p. 10

<sup>111</sup> Simon, *Vacant Spaces*, MAAPL (June, 2011)

<sup>112</sup> Karen Black, *No Place Like Home; Philadelphia's Approach to Foreclosure Prevention*, RHLS (September 2011)

increasingly appear to have been and are being illegally foreclosed upon, but for all their neighbors, their children, the taxpayers and government at all levels in our state trying to use dwindling resources to address a still propagating crisis.

Are there lights in the distance that point the way for state and municipal policy changes to build on some of the ground breaking interventions already taking place elsewhere? Absolutely.

Mandatory Mediation's positive outcomes for all participants have been well documented at this point. They include a clear emphasis on good outreach, third party mediators, clear requirements for documentation and participation. Initiatives that put the onus of responsibility on some of the larger banks that continue to foreclose, vacate and abandon properties in neighborhoods across our state have a place. Judicial foreclosure or some means through the Registrar of Deeds where we begin to address the profound damage created to our property title system, is another valid focus. MAAPL's new study, *Vacant Spaces* clarifies through quantifying only three of many areas of municipal harm that foreclosed properties should not be vacated regardless of the initial status of occupants.

Policy makers must be conscious of the policy choices that address the anomalous housing situation created by the foreclosure crisis where there are few rental vacancies and rents continue to rise even as property values continue to drop. Our state cannot afford continual losses in property values diving below the already 20% in property losses. Interventions that begin to create a floor for the loss in property values – that is interventions that slow and mitigate the number of properties that go through an actual foreclosure that are then abandoned or ignored – must be addressed. Whether it is an argument that investors are dragging their heels on allowing legitimate modifications of loans that include principle reductions down to present day values or some other self-interest of financial institutions protecting the assessed value of assets on their books from the past, we cannot afford to continue to have the residents of Massachusetts pouring out money to pay for overpriced assets into the coffers of financial institutions far away from the neighborhoods and communities of Massachusetts.

Will such overpricing when it is far beyond even historical bubbles by necessity over time be corrected through our economy? Even if such correction happens eventually (30 or 40 years out) the question remains, will the correction be a conscious process where we strive to avoid an over correction? Will the cost of the correction continue to be done primarily at the expense of our residents' and governmental coffers, the life quality of our neighborhoods and the survival of Massachusetts businesses? Or will we increase the steps we are taking now to put in place the policies and protection we need to act as a Commonwealth?

While the addenda to this report address some misconceptions about where the crisis started, they show the most vulnerable were affected first by practices that drove a historically anomalous increase in property values across our state. It is clear: that which impacts the most vulnerable amongst us – if ignored – ultimately reveals the vulnerability of us all as we share in our society and economy.

## Addenda:

### A. Initial Assumptions: Geography, Subprime Mortgages

When the foreclosure crisis first became large enough to be really visible in our Commonwealth it appeared to be the problem of municipalities and certain large towns in our state. While that made it possible to conceive of foreclosures as primarily an inner city problem, we pointed to the likelihood that the foreclosure crisis would stretch its tendrils out to every community in our state. While it first appeared that the victims of mortgage lenders' "creative mortgage instruments" were people of color, closer analysis showed that the early damage required somewhat more complicated and incisive analysis.

Even in its early stages the foreclosure crisis did not line up perfectly with a simple inner city analysis. The hardest hit communities in our state as a whole have not, for instance, been in primarily in Suffolk County but represented more of the gateway cities, the secondary cities and largest towns throughout the state<sup>113</sup>. That may be because the initial foreclosures were primarily due to sub-prime mortgages that had been marketed through networks centered around different brokers in specific areas of the state. In fact, internal documents by the largest mortgage lenders showed purposive targeting of communities and ethnic networks where marketing for sub-prime mortgages was predicted to be most successful<sup>114</sup>. And the statistics show a racial bias in who was eligible for prime mortgages but were steered into sub-prime mortgages<sup>115</sup>. Similarly, the rate of denial of loan modifications has shown a racial bias<sup>116</sup>.

The fact that the initial foreclosures were caused by sub-prime mortgages led to a number of misconceptions in political analysis and distracted initial policy solutions from some of the more devastating impacts which were yet to come. There was an assumption, for instance, that the vast majority of those who got sub-prime mortgages were first time homebuyers who did not know any better; yet most of the sub-prime mortgages were actually taken out as refinances or in other ways by people who already owned property<sup>117</sup>. It was not the borrowers primarily who had changed; it was their mortgages<sup>118</sup>.

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<sup>113</sup> Worcester 2010 ranked top in foreclosure petitions with 960 in Warren, CHAPA Breakfast, slide 10. Worcester County has consistently been hardest hit. In 2006, 2007, 2008, Worcester ranked in the top fifteen municipalities for foreclosure activity and remains there June, 2011, Massachusetts Foreclosure Monitor, Third Quarter 2008, Massachusetts Housing Partnership (September, 2008) & *Foreclosure Monitor: Distress continues to ebb in urban areas*, Massachusetts Foreclosure Monitor, Second Quarter 2011, Massachusetts Housing Partnership (June, 2011).

<sup>114</sup> A few major exposes mostly based on interviews with workers inside the mortgage describe these targeted practices. One example from Wells Fargo, for instance, referred to an organizational culture where subprime loans were referred to as ghetto loans and targeted outreach to – their term – “mud-people”. Michael Powell, “Bank Accused of Pushing Mortgage Deals on Blacks.” NYTimes.com. New York Times, (June 6, 2009).

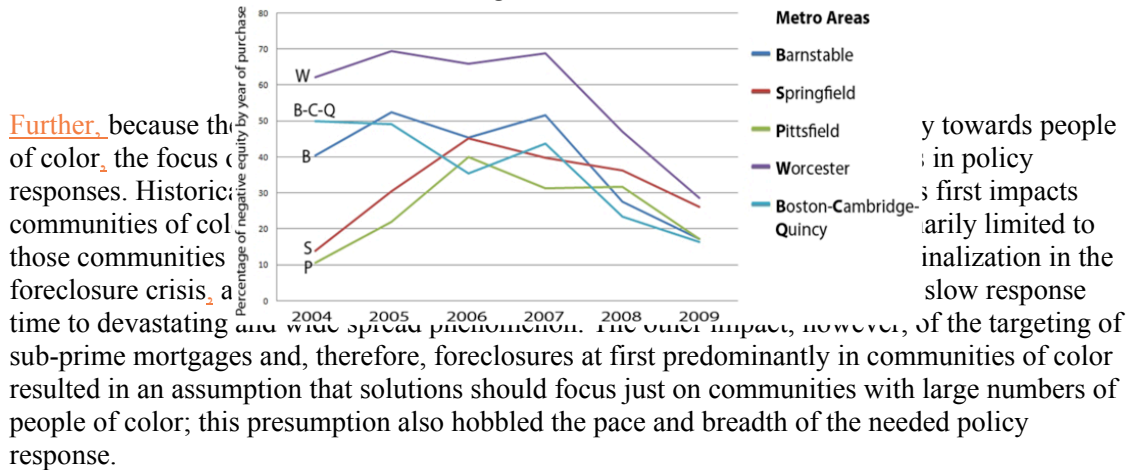
<sup>115</sup> Jim Campen, *Mortgage Lending to Traditionally Underserved Borrowers & Neighborhoods in Boston, Greater Boston and Massachusetts, 2006*, Changing Patterns XIV, Mauricio Gastón Institute for Latino Community Development and Public Policy, University of Massachusetts/Boston (February 2008), pp. 6-9.

<sup>116</sup> “Loan servicers foreclose on delinquent black or African-American borrowers more quickly than White or Hispanic borrowers. Additionally, White HAMP eligible borrowers are almost 50 percent more likely to receive a modification than African-American or Latino borrowers.” *Racial Disparity in HAMP Loan Modifications*, National Consumer Law Center, (March 30, 2010).

<sup>117</sup> Kristopher Gerardi et al, *Making Sense of the Subprime Crisis*, p. 8

<sup>118</sup> Between 2001 and 2006, the percentage of traditional – prime – mortgages halved while the percentage of subprime mortgages tripled and by 2008 almost completely disappeared; Frank E. Nothaft, *Subprime and Alt-A Volume Quintupled 2001 to 2006, then Fell from 2006 to 2008*, Presentation at Beyond the Crisis, Milken Institute's

Massachusetts Mortgages Underwater in 2009 for Years of Origination 2004-2009



But the most critical problem with initial analysis of the crisis was the perception that sub-prime mortgages themselves were the problem. In retrospect, their importance was that they became the vehicle for financial speculation and the creation of wildly unrealistic property evaluations. In analyzing the data that we have now, it is crystal clear that what mattered is not the type of mortgage that people got so much as when they financed or refinanced (more frequently refinanced) into a mortgage<sup>119</sup>. Negative equity sufferers in our state are in fact best predicted by the year in which a mortgage was gotten not the type of mortgage that was gotten (see graphic 2009 snapshot of households underwater by year of origination of mortgage)<sup>120</sup>.

The primary driver behind the foreclosure rate has ended up being the plummeting of property values once the housing bubble started to burst. While sub-prime mortgages with little or no equity were the first to be likely to fold from negative equity, even those who got prime mortgages and put down 20% found themselves underwater as the property value loss in Massachusetts has averaged out to almost 20% thus far.

Financial Innovations Lab on Housing (Oct. 7, 2008). And while those who got subprime mortgages were mostly previous mortgage-holders until 2004, these mortgages had a constellation of characteristics that together were likely to trap borrowers *even if they were properly disclosed to borrowers*. For this last reason, Justice Gants ruled them presumptively “unfair” by Massachusetts standards, *Commonwealth v. Fremont Investment & Loan and Fremont General Corporation*, 452 Mass. 733 (2008).

<sup>119</sup> The lay-out of the graphic is misleading but it shows the percentage underwater *by year of origination as of 2009*. Clearly the highest percentages of mortgages underwater of *all* types of mortgages are from 2005 to 2007.

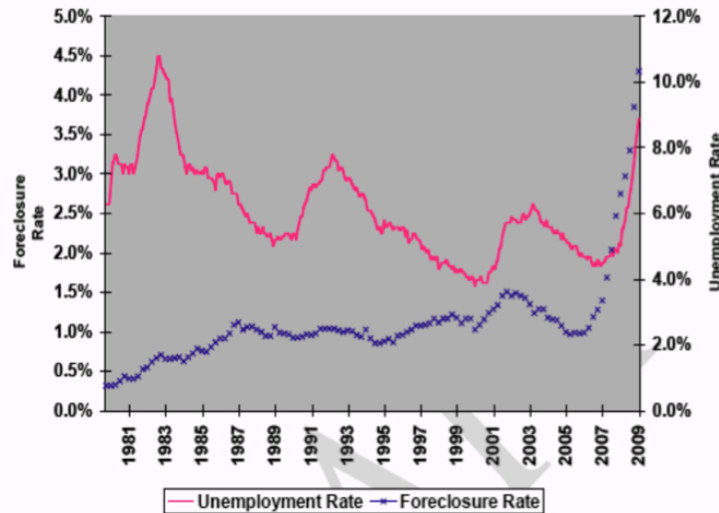
<sup>120</sup> Zillow, “Massachusetts Home Prices and Home Values-Local Info,” 2 Nov. 2009.

## B. Causes: Equity & Unemployment

You can hear fairly frequently these days comments about unemployment driving foreclosures<sup>121</sup>.

it is a concomitant graph below from *Foreclosure Mitigation* economic downturn that traditionally household – have home in a downturn, loss of

What made this households in cash households do not their mortgage; not materialize type of mortgage household received, if they financed or refinanced from 2002 onward during the housing price ramp up, they did not have a real increase in equity; the apparent property value increase was based on speculative or phantom value during the housing bubble. Any equity invested in those years disappeared once the bubble burst because it was not based on real long-term property value.



crisis, although look at the *Assessment of* employment in the reason is 3 of a last, equity in a payment, loss of

situation of written so that ns to pay off lth was could fless of the

<sup>121</sup> The Federal Reserve Report argues that while negative equity is a necessary condition for foreclosure that unemployment and other economic life events are what are driving borrowers opting to give up on their mortgages. Missing in the analyses of those making this argument is a deeper understanding of the lack of an economic cushion; in fact, we live in time period with the largest divide between the vast majority of the population and the very wealthy. We would argue a driving force in the huge number of foreclosures is not single economic events in people's lives but a long term loss of any kind of economic "cushion", that it is the ever deepening economic hole most people find themselves in that is prompting the numerous delinquencies regardless of specific precipitating events. CBSNews Business, *Foreclosure Rates Rise on High Unemployment* (Jan. 27, 2011)

<sup>122</sup> Sources: MBA National Delinquency Survey, Bureau of Labor Statistics. Julia Gordon, Center for Responsible Lending, *HAMP, Servicer Abuse, and Foreclosure Prevention Strategies*, testimony at Hearing of the Troubled Asset Relief Program Congressional Oversight Panel (Oct. 27, 2010), p.9.

<sup>123</sup> Gordon, *HAMP, Servicer Abuse, and Foreclosure Prevention Strategies*, pp.8-9.

<sup>124</sup> Joint Economic Committee, *Coast To Coast*,... (Apr 10, 2008).

Given the huge amount of negative equity in households across our state in this economic downturn, homeownership actually became a liability; that vulnerability is then exacerbated by any other negative economic stress whether it is unemployment, divorce, and other kinds of family stressors or the still increasing amount of medical debt and medical bankruptcy. Therefore, for the first time since these figures were recorded, increasing unemployment has run parallel although slightly behind increasing foreclosures; together, they have combined to exacerbate the negative impact on our economy<sup>125</sup>. The underlying driving force, however, was first the foreclosure crisis and the impact of loss of “equity” that was never actually based in long-term real property values.

### C. Mortgage illegalities: Essex County Registry of Deeds & Ibanez

Periodically, we get a glimpse, like a flash of lightning throwing the depth of an aspect of the crisis into stark relief. It has been especially hard to grasp the depth of potential legal irregularities in this crisis given, among other aspects, the lack of judicial foreclosure in Massachusetts. With judicial foreclosure, the vast majority of foreclosure transactions would have been reviewed by a judge who hopefully would have carefully reviewed the chain of custody of mortgage assignments and steps in the foreclosure process.

One snapshot on the integrity of our mortgages and titles was provided by the disturbing disclosures from the Ibanez case first adjudicated in Springfield Land court. A second comes very recently (June, 2011) from the forensic research of filings in the Essex County Registry of Deeds commissioned by the very conscientious Essex County Register of Deeds.

In her study, *Forensic Examination of Assignments of Mortgages Recorded During 2010 in the Essex Southern District Registry*<sup>126</sup>, Marie McDonnell summarized her findings for 2010 filings of mortgages with assignments involving just three of the major lenders – Morgan Chase, Wells Fargo and Bank of America, as follows:

473 unique mortgages were analyzed, covering \$129,577,415 in principal. Of these:

- 16% were valid
- 75% in valid
- 8.7% questionable

Specifically: 27% were fraudulent, 35% "robo-signed" and 10% violate the Mass Mortgage Fraud Statute.

Which financial institutions currently own them could only be determined for 287 out of 473 (60%) mortgages reviewed. 683 assignments are missing if the chain of custody of the mortgages had been completed properly - translating into \$180,000 in lost recording fees for the mortgages whose current ownership can be traced. A number could not even be traced.

While McDonnell is still in the statistical analysis phase of her work, if her analysis is even predominantly correct and is roughly comparable to other registries across Massachusetts since

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<sup>125</sup> Gordon, *HAMP, Servicer Abuse, and Foreclosure Prevention Strategies*, pp.8-9.

<sup>126</sup> Marie McDonnell, *Forensic Examination of Assignments of Mortgages Recorded During 2010 in the Essex Southern District Registry* (June 30, 2011), p.6

the frequent reassignment of mortgages, bundling of securities and use of MERS became common in the last decade, for instance, the implications for the integrity of not only foreclosures in recent years but much of our title-ownership system is daunting.

The Ibanez decision<sup>127</sup> is critical because it points out the issues created by the transferring of ownership over and over again between different lenders especially in a state with no judicial review at the point of foreclosure. Specifically, the Ibanez case came about because of title issues in the resale of properties that banks had already foreclosed on. Title issues are one of the two situations where deed paperwork is likely to come in front of an actual judge given Massachusetts' non-judicial foreclosure process. The other one being eviction proceedings in the Housing or District Court.

The titles in question were clouded and the title companies had hoped to go in front of a judge in Springfield Land Court and be given some guidance on how to clean up the titles. However, Judge Long, when he saw the paperwork presented by the lenders who claimed ownership found that paperwork to be so defective that there was no solution to retroactively fix the foreclosures. These two cases went all the way up to the Massachusetts Supreme Judicial Court. The issues, the problems with these foreclosures raise are very wide spread and only include some of a number of types of questionable legal actions that have come to light in the last couple of years.

One of the Ibanez examples underlines the truly egregious nature of the way that ownership of these mortgages was passed off and the questionable way in which the banks have tried to prove continued ownership of the property<sup>128</sup>. In this particular case, the mortgage had been repurchased and repurchased; the last lender in line then took that mortgage and bundled it into one of these investment bundles with many dozens of other properties. They claimed they did file the proof of ownership legal paperwork for the investment bundle itself; however, they had never filed the list of properties that had been bundled into that bundle. When the Judge questioned them about the missing list, they produced a lot of documentation including an internal list of properties that the lender claimed were the basis of that investment bundle. They presented that to the judge; they said that on that list you could see there was a property in the same zip code as the property that they were now claiming ownership of. Although there was no address or name attached to the property on the investment list that was in that zip code, that the amount owed on the property in question matched the monetary amount on the investment bundle list for the property in that zip code. Therefore, with a matching zip code and a matching outstanding debt, that *must* be their property!

What would happen if a regular person showed up with a receipt and said, on a car lot, for instance, "I own that car"? And the owner of that car lot said "what do you mean, how can you say you own that car?" And they produce legal paperwork showing that they had borrowed enough money to purchase a car which had a sticker price of the same amount as on that car's sticker, and, therefore, that must be the car that they had successfully borrowed the money for.

Because we in Massachusetts do not have judicial foreclosure, errors in the chain of mortgage ownership that egregious can happen without any judicial review. For literally thousands of

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<sup>127</sup> U.S. Bank National Association v. Ibanez, 458 Mass. 637 (2011).

<sup>128</sup> U.S. Bank National Association v. Ibanez, 458 Mass. 637 (2011).

homeowners or former homeowners in Massachusetts, this raises questions whether any lender can legitimately claim ownership of a particular mortgage attached to their property. This throws into stark relief the level at which we need correction in Massachusetts.

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