

SalemNews.com, Salem, MA

July 1, 2011

Our View: AG needs to get tough on faulty mortgages

Attorney General Martha Coakley should immediately follow the advice of Southern Essex Register of Deeds John L. O'Brien and join her New York counterpart, Eric Schneiderman, in demanding a halt to settlement talks with the nation's biggest banks regarding their foreclosure and mortgage-writing practices.

All 50 states have joined in a suit against the banks, which they claim evaded accepted practices in the writing and recording of mortgages during and after the last decade's real estate boom. A group of attorneys general led by Iowa's Tom Miller has been negotiating with the lenders and are reportedly close to a settlement that could be in the range of \$20 billion to \$25 billion. Astoundingly, some, including O'Brien and Schneiderman, say that may not be nearly enough to compensate government agencies and consumers for the losses they have incurred due to the use of improperly signed documents and other fraudulent activity.

"I am stunned and appalled by the fact that America's biggest banks have played fast and loose with people's biggest asset — their homes," O'Brien declared in a statement released this week. "This is disgusting and this is criminal."

His outrage is understandable. A recent review of 565 property assignments filed in his office in Salem involving JP Morgan, Chase, Wells Fargo and Bank of America in 2010, found that 75 percent were invalid, and another 9 percent questionable.

Marie McDonnell, president of the firm that conducted the audit and who has vast experience in the field, stated in the same release that even she was not prepared for the "shocking" results.

"What this means," she declared, "is that the degradation in standards of commerce by which the banks originated, sold and securitized these mortgages are so fatally flawed that the institutions, including many pension funds, that purchased (them) don't actually own them." These clouded titles affect not only those who purchased the mortgages, but tens of thousands of homeowners around the country who may think they have clear title to their property, but don't.

O'Brien estimates that registries in Massachusetts alone were deprived of more than \$400 million due to the failure by these big banks to properly record property transactions, relying instead on a private entity called the Mortgage Electronic Registration Systems (MERS), which they control.

The potential damages are so great, Schneiderman said at a meeting with the Rochester Democrat & Chronicle editorial board this week, that there is no way he could sign off on a settlement of the type being discussed. And a spokesman for O'Brien described even \$25 billion as "peanuts" given the number of people and institutions harmed.

O'Brien has filed a formal plea with Coakley's office asking that she join Schneiderman in demanding that any

settlement talks be put on hold until the full extent of damages can be ascertained.

According to the paper's account of the editorial board meeting, "Schneiderman said (he) has found the problem is much deeper" than what has been revealed by Miller's investigators thus far. "He said he was 'stunned' to find the multistate probe so lacking that no documents or witness depositions had been obtained," adding, "We have no leverage."

Coakley should act quickly to make sure Massachusetts homeowners, government agencies and others caught up in this scandal are properly protected.