

# SalemNews.com, Salem, MA

March 17, 2011

## Official: Lost fees impact preservation

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SALEM — Efforts by North Shore communities to preserve historic properties, open space and affordable housing could be another casualty of a national home mortgage foreclosure crisis, officials say.

Two weeks after publicly blasting a corporation set up by several major banking conglomerates for not paying millions of dollars in recording fees, South Essex Register of Deeds John O'Brien is pointing to the effect those missing fees have had on the Community Preservation Act trust fund.

That fund is maintained by the state, and provides communities that have adopted the Community Preservation Act with money to help purchase property for a range of purposes.

"I know that this important act provides communities such as Peabody with funds to preserve open space and historical sites along with creating affordable housing and recreational facilities," O'Brien said in a statement.

Out of each \$75 recording fee that is supposed to be paid whenever a property is sold, refinanced or otherwise transferred, \$20 is supposed to go to the CPA trust fund.

Communities that have adopted the act agree to levy a property tax surcharge of up to 3 percent. They are then entitled to receive money from the trust fund, including a match of whatever is collected through the property tax surcharge.

Locally, Peabody, Hamilton, Wenham, Middleton and Boxford have adopted the Community Preservation Act.

The trust fund has already taken a hit from the decline in home sales and mortgage refinancings, which meant a concurrent drop in recording fee revenue, according to the Community Preservation Coalition, a nonprofit advocacy group.

However, mortgages that were transferred and sold by a company called Mortgage Electronic Registration Systems (MERS) were never even recorded. Instead, MERS acted as a private registry, enabling mortgages to be easily bought and sold by investors in bundles.

The company has come under fire in recent months, as judges have questioned its authority to circumvent local property registers, as well as its legal standing to initiate foreclosures on behalf of others, such as investors, who actually hold the title.

O'Brien's top deputy estimated that the fund could have earned several million dollars had the fees been paid on every mortgage transfer.

O'Brien has asked the attorney general to pursue legal action.

Stuart Saginor, executive director of the Community Preservation Coalition, is also backing the effort.

Sagnior called the \$20 surcharges "an important vehicle to help municipalities preserve open space, create affordable housing, expand recreational assets and rehabilitate historic resources."

"We understand that Attorney General (Martha) Coakley has been asked to look into this question," he said in an e-mail, adding that the organization is looking forward to an answer.

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