

NewburyportNews.com, Newburyport, MA

March 10, 2011

Scheme costs city \$205K in CPA funds

Official vows to sue to recoup money

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NEWBURYPORT — A company at the heart of the nation's foreclosure crisis is being blamed by the state for robbing Newburyport of an expected \$205,840 in Community Preservation Act funds.

In a letter released recently by Essex County Registrar of Deeds John O'Brien, it was made public that Newburyport will be denied the monies it's entitled to receive under the Community Preservation Act of 2000, thanks to what O'Brien deems the "reprehensible" actions of the Mortgage Electronic Registration System and banks aligned with the entity known as MERS throughout the mortgage industry.

O'Brien charges MERS and its lender members JP Morgan Chase, Bank of America and CitiMortgage with failing to pay recording fees that should have been directly deposited into Newburyport's CPA account for the coming year.

West Newbury will suffer as well, he said, and will be denied \$49,680 of earmarked monies for its CPA program.

"I know that this important act provides communities such as Newburyport and West Newbury with funds to preserve open space and historical sites along with creating affordable housing and recreational facilities," wrote O'Brien. "The fact that these banking conglomerates have created a scheme which has seriously damaged the integrity of the land recordation system in Massachusetts and the other 49 states, while at the same time thumbing their nose at the laws that everyone else must follow, is truly

reprehensible."

Property owners in Newburyport pay a 2 percent surcharge on their property taxes, which goes into the city's CPA fund. When voters passed the surcharge in 2002, the state said it would match the amount raised dollar-for-dollar. The loss this year represents about one-third of what Newburyport expected to get.

Money from the fund can be used for three purposes: historic preservation, open space, or affordable housing.

City Planning Director Andrew Port said he had not yet received notification of the city's denial of the \$205,840.

"It's extremely important to Newburyport," Port said. "We do lots of preservation projects and we have more requests than we can accommodate. We can't afford to lose any of that money."

Port explained that the state CPA formula created in 2000 looked to the trends in the real estate industry, which at the time was rampant with the rapid transfer and "flipping" of homes and properties for a quick profit, and mandated that a portion of all assignment fees — \$20 according to O'Brien — be earmarked toward the fund.

"People were constantly turning over properties," Port said. "Nobody was caring about historic preservation. A tax was put on that, and that money was put back into preserving properties."

O'Brien lashed out at MERS and the banks that used the company to yield massive profits for both the destruction of valid property records, and for the subsequent refusal to pay the state mandated fees on those recorded transfers.

"People have a right to know who owns their mortgage, and the taxpayers have a right to be reimbursed for the fees that should have been paid," O'Brien said. "MERS' deliberate attempt to keep their actions secret and to deprive communities such as Newburyport and West Newbury the funds necessary to continue the great work of the CPA is something that I will not tolerate."

In recent years, the money Newburyport has received in CPA funding under the formula has amounted to about \$600,000 annually, Port said. It's been used to help fund affordable housing in the city, help restore historic sites and is currently helping kick-start a renovation of the Newburyport High School's World War Memorial Stadium, built as a Works Progress Administration job that helped put local men and women back to work

during the Great Depression.

Funds have already been designated for the early work on the stadium, but Port said much more will be needed to finish the estimated \$1.7 million project.

"This could possibly hurt future funds for that project," he said.

O'Brien issued a warning to MERS and bank entities, claiming he was ready to "pursue them as vigorously as banks would pursue a consumer if they were owed a bank fee" and said he asked Attorney General Martha Coakley to file a lawsuit against MERS to recoup the funds.

"Can you imagine what they would do?" O'Brien said when describing how banks might respond in the same situation. "You would be placed in a credit bureau, and they would chase you to the gates of hell for their money. Well, guess what? I am going to chase them."

Port said the city would be on board with any action that facilitated the release of funds owed to the city.

"It's no surprise there's been some reduction of money," Port said. "That's more substantial than we were anticipating."