

# Somerville Foreclosure Report

PREPARED BY CAMBRIDGE AND SOMERVILLE LEGAL SERVICES AND  
THE COMMUNITY ACTION AGENCY OF SOMERVILLE<sup>1</sup>

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## Summary of Findings

- Nearly 400 properties consisting of almost 700 housing units are known to have been in some stage of foreclosure from 2007 to March 24, 2010. The actual number of owners at risk of foreclosure is even higher.
- As of March 24, 2010, mortgage holders had foreclosed on more than one third of these properties. Of the remaining properties, some will avoid foreclosure through modifications, short sales, and bankruptcies, however, many may still ultimately end in foreclosure.
- Foreclosure is a problem that impacts all of the neighborhoods in Somerville. East Somerville and Winter Hill are particularly hard hit by the foreclosure crisis.
- The average length of the foreclosure process increased from 2007 to 2009. Data through March 24, 2010 show that the length of a foreclosure appears to once again be returning to 2007 levels.
- Properties sold at a foreclosure auction sell for an average of 9% less than their assessed value. Properties that have been resold a second time after the auction have been sold for an average of 27% less than their assessed values.
- The number of tax liens filed in the City of Somerville has increased more than 300% between FY 2007 and FY 2009, but the number of foreclosure proceedings initiated and the number actually completed have changed little during that same time period.
- Of the properties identified as being in some stage of foreclosure from 2007 to March 24, 2010, 16% had eviction cases filed in court during the period leading up to, during, or immediately after the foreclosure process.
- The majority of foreclosure related evictions took place after the foreclosure auction.
- Nearly ¾ of all directly foreclosure related evictions resulted in the landlord being awarded possession.

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## I. CAAS-CASLS Foreclosure Work in Somerville

In September 2009, staff from the Community Action Agency of Somerville (CAAS) and Cambridge and Somerville Legal Services (CASLS), an office of Greater Boston Legal Services, began collaboration on a foreclosure outreach project in Somerville. The goals of this collaboration are:

- 1.) to identify residential properties involved in the foreclosure process;
- 2.) to contact tenants and owners/former owners living in these properties in order to inform them of their rights and direct them to available resources;
- 3.) to empower interested tenants and owners/former owners to become more politically active on this issue; and
- 4.) to gain a better understanding of the foreclosure crisis in Somerville so that our agencies can better serve affected residents.

In order to achieve these goals, the foreclosure outreach project centers on monthly canvassing, monthly organizing meetings, individual meetings with advocates, and legal representation.

### A. Monthly Canvassing

Volunteers are recruited and trained to knock on the doors of properties that have been identified as being in some stage of foreclosure. Volunteers help connect tenants and owners/former owners with foreclosure resources and hand out flyers in English, Spanish, Portuguese, and Haitian Creole that answer some basic questions about foreclosure and the rights of residents in foreclosed properties. The flyers also invite people to the monthly meetings.

Canvassing has been taking place at least once a month since November 2009. In the canvassing that has been done from November 2009 through April 2010, 33 volunteers have knocked on the doors of 208 properties and spoken to people in at least 90 of these properties. Volunteers sometimes return to a property that has been canvassed in the past if the residents have not gotten in touch with one of our agencies and/or the foreclosure has moved from an Order of Notice to a scheduled auction date.

### B. Monthly Meetings

At the monthly meetings, Somerville residents living in properties affected by foreclosure share their stories, are given an overview of foreclosure and eviction law, learn about their rights, discuss on-going legislative reform efforts, and meet one-on-one with attorneys or advocates to obtain answers to their questions about their individual cases. We have held five meetings at CAAS since November 2009, which have been attended by 33 people.

## C. Individual Meetings with Advocates

Since September 2009, CAAS advocates have been in touch with 95 families living in properties that are in some stage of foreclosure, providing advocacy, case management, and referrals in individual cases. CAAS advocates also frequently consult with attorneys at CASLS about advising, assisting, and referring individuals needing legal representation.

The foreclosure organizer at CAAS meets with owners who are facing foreclosure to help refer them to appropriate resources including loan modification and budgeting resources.

## D. Legal Representation

Income-qualified tenants and former owners facing eviction post-foreclosure are encouraged to seek representation at CASLS. The Consumer Law Unit at Greater Boston Legal Services is also able to represent a limited number of homeowners who are fighting foreclosure.

## II. Somerville Foreclosure Data

### A. Overview

When we began our foreclosure work in September 2009 we set out to identify all properties in Somerville that had been in some stage of foreclosure between January 1, 2007<sup>2</sup> and March 24, 2010<sup>3</sup>. We hoped that collecting this data would allow us to conduct outreach to properties in foreclosure (as described above) and to better understand the impact of the foreclosure crisis on Somerville so that we can tailor our efforts to the needs that exist in this community.

### B. Data Collection Process

Foreclosure related data for Massachusetts can be found by consulting several different sources. To get the most comprehensive view possible, we consulted the Warren Group database,<sup>4</sup> the Registry of Deeds online database<sup>5</sup> and My Public Notices on the Boston Globe's website.<sup>6</sup> For more information about data collection, see Appendix B.

### C. Discussion of the Data

There were 391 residential properties in Somerville that were in some stage of foreclosure between January 1, 2007 and March 24, 2010. These properties contained a total of

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<sup>2</sup> January 1, 2007 was chosen as the starting date because data in the Warren Group database only goes back until that date. We also believed that January 1, 2007 roughly corresponded to the start of the foreclosure crisis.

<sup>3</sup> The end date represents the date on which we finished entering all of our data. Data collection was ceased in order to compile and analyze the data. Data collection by our offices remains ongoing.

<sup>4</sup> The Warren Group's foreclosure database is accessible online at:  
<http://www.warrengroupforeclosures.com>. A subscription is required to access the data.

<sup>5</sup> The Middlesex South District Registry of Deeds is searchable online at: [www.cambridgedeeds.com](http://www.cambridgedeeds.com).

<sup>6</sup> My Public Notices is available online at: <http://www.mypublicnotices.com/bostonglobe>.

694 individual housing units. For comparison, Somerville as a whole has 11,832 properties which are zoned for residential use,<sup>7</sup> with an estimated 31,555 housing units.<sup>8</sup> Therefore, at least 3.3% of all residential properties in Somerville were in some stage of foreclosure during this time. This figure does not include all people who are behind on their mortgages and ultimately at risk of losing their homes in foreclosure, or homeowners who had been behind on their mortgages and sold before foreclosure. We could only track properties with at least a public Order of Notice.<sup>9</sup>

*Table 1. Properties in Foreclosure*

	<b>Properties</b>	<b>Units</b>
Properties in some stage of foreclosure	391	694
All residential properties in Somerville	11,832	32,621
Percentage in foreclosure	3.3%	2.1%

Of the 391 properties we identified, 143 properties were actually foreclosed on and sold at auction, totaling 255 housing units. The remaining 248 properties and 439 units did not complete the foreclosure process. For about half of these, 119 properties, we are unaware of any further steps in the foreclosure process after the Order of Notice. The remaining 129 properties had a public auction notice, but we found no evidence that the auction or any other sale had occurred yet. Some of these 248 properties may still be in danger of foreclosure. Others may ultimately avoid foreclosure through a variety of mechanisms. For example, the owners may have repaid their late mortgage balance, they may have renegotiated terms with the bank, or they may have declared bankruptcy.

Additionally, we identified 17 properties which appear to have been sold before a foreclosure could take place. It is likely that these were short sales, where the mortgage lender allowed the property to be sold for a value less than the remaining mortgage balance rather than complete a foreclosure auction. Finally, some owners may have tried to avoid foreclosure by converting multi-family buildings to condominiums, which were then sold off to individual buyers. Deed records suggest that this happened at 12 different properties.

<sup>7</sup> This number was obtained from land use information in the City of Somerville Assessor's parcel database. This parcel database is also part of Somerville's Geographic Information Systems data.

<sup>8</sup> U.S. Census Bureau, American FactFinder, *2008 American Community Survey 1-Year Estimates*, <http://factfinder.census.gov/>. The 2005 Somerville Housing Needs Assessment listed 31,555 housing units in Somerville. See City of Somerville, *Somerville Housing Needs Assessment* (2005), [http://www.somervillema.gov/CoS\\_Content/documents/Final%20Needs%20Assessment.pdf](http://www.somervillema.gov/CoS_Content/documents/Final%20Needs%20Assessment.pdf).

<sup>9</sup> An Order of Notice is issued after a lender files a complaint at the Land Court under the Service Members' Civil Relief Act.

Table 2. Foreclosure Resolutions

	<b>Properties</b>	<b>Units</b>
Properties in some stage of foreclosure	391	694
Properties sold at foreclosure auction	143 (37%)	255 (37%)
Public auction notice, but no evidence of auction	129 (33%)	221 (32%)
No other foreclosure activity observed	119 (30%)	218 (31%)
Property sold after foreclosure notice	17	
Property subdivided into condo units	12	

For the properties that were foreclosed on, the average length of time between the Order of Notice and the foreclosure deed was 193 days, or just over half a year. However, we observed a lengthening trend in the process between 2007 and 2009. For foreclosure deeds issued in 2007, the average duration of the foreclosure process was just over five months. By 2009, that time had increased to nearly eight months. This is likely due to legislation enacted in 2009 that delayed many foreclosures. Data through March 24, 2010 indicates that properties are again being foreclosed upon more quickly in 2010 with a return to the average foreclosure processing time of just over five months for the 10 properties foreclosed upon to date in 2010.

Although the number of properties in Somerville given notice of foreclosure rose over this time period, the actual number of completed foreclosures remained fairly constant from 2007 to 2009.

Table 3. Foreclosures by Year

	<b>Foreclosure petitions</b>	<b>Properties foreclosed</b>	<b>Units in foreclosed properties</b>	<b>Average units per foreclosed property</b>	<b>Days between notice and foreclosure sale</b>
2007	88	40	66	1.65	157
2008	113	48	85	1.77	193
2009	133	41	84	2.05	234
2010 <sup>10</sup>	29	10	15	1.50	154

We also compared the prices of properties which sold at foreclosure auction to each property's assessed value and the estimated market value listed at Zillow.com, an online real estate marketplace.<sup>11</sup> Properties sold at foreclosure for an average of 9% below their assessed value, and 13% below their Zillow-estimated market value. This depressed pricing continued for

<sup>10</sup> Data from January 1, 2010 through March 24, 2010.

<sup>11</sup> "The Zestimate home valuation is Zillow's estimated market value, computed using a proprietary formula. It is not an appraisal. It is a starting point in determining a home's value." <http://www.zillow.com/wikipages/What-is-a-Zestimate/>.

properties that were later resold after an auction. At a subsequent sale, the price dropped by a further 18% on average.

By far the largest proportion of properties sold at foreclosure auction, 126 out of the 143 foreclosed properties, were bought by the lending bank or mortgage holder (hereinafter “Lenders”). Most of these, 95 out of 126, were then sold off by the Lender. Investors bought 11 and then resold 7 of the properties.<sup>12</sup> Six properties were bought at the foreclosure auctions by individuals,<sup>13</sup> and only one of those was later resold.

*Table 4. Auction Price, Sale Price, and Value of Foreclosed Properties*

	<b>Average difference from assessed value</b>		<b>Average difference from Zillow estimate</b>	
Price at foreclosure sale	-\$33,494	-9%	-\$52,164	-13%
Price at subsequent sale	-\$84,001	-27%	-\$107,854	-28%

Lenders and investors had very different fortunes when they later sold the properties they had purchased at foreclosure auction. On average, Lenders resold their properties at a price that was 20% lower than what they had paid at the foreclosure auction, although 19 out of their 95 subsequent sales were profitable. Investors, on the other hand, made an average profit of 15% at subsequent sales.

*Table 5. Properties Purchased at Foreclosure*

	<b>Number of properties</b>	<b>Number resold</b>	<b>Average number of days before resale</b>	<b>Average price change at resale from foreclosure</b>	
Purchased by lender	126	95	184	-\$73,714	-20%
Purchased by an investor	11	7	186	\$45,190	15%
Purchased by individuals	6	1	37	\$59,000 <sup>14</sup>	23%

Of the 95 properties resold by lenders during the period we were monitoring, there was an average holding time of 184 days. This means that the typical subsequent sale took place more than a full year after the beginning of foreclosure proceedings. When the lenders resold these properties, 15 of the sales were to investors, at an average price of 40% below the foreclosure price. These sales were an average of \$169,000 below the properties’ assessed values. In contrast, the remaining 80 sales were to individuals, with an average price 17% below the price the lender had paid at the foreclosure auction. This price still represents an average discount of \$60,000 below the assessed value.

<sup>12</sup> We classified limited liability companies and partnerships as investors.

<sup>13</sup> We classified the purchaser as an individual if the property was purchased in a person’s own name, and not through a corporation or limited liability company. Some of these properties may have been purchased jointly by multiple individuals.

<sup>14</sup> This price represents the one resale by an individual, and therefore is not indicative of an average outcome.

Table 6. Lender-Owned Properties at Resale

	<b>Number of properties</b>	<b>Average number of days held after auction</b>	<b>Average price change at resale from foreclosure</b>	<b>Average difference from assessed value</b>
Purchased by an investor	15	199	-40%	-\$169,747
Purchased by individuals	80	181	-17%	-\$60,764

### III. Additional Foreclosure Related Data

#### A. Tax Lien Foreclosures

Tax lien foreclosures follow a different process than other foreclosures. When the property owner fails to pay property taxes, the City sends the owner a 14-day demand letter. If there is no response to the demand letter, the City places a lien on the property. If the owner still fails to pay the taxes, the City will eventually move to foreclose on the property.

Unlike other types of foreclosures, owners who have lost their properties in tax lien foreclosures have the right to redeem, with the Land Court generally permitting redemption up to one year after the judgment. If the property has been sold to a new owner, post-foreclosure redemption by the former owner is more complicated but may still be possible.

In all of the years examined, the City of Somerville only moved to foreclose on a handful of properties with the foreclosure process actually reaching completion in only a few.

Table 7. City Tax Liens

	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010<sup>15</sup></b>
<b>Tax Liens</b>	49	119	179	85
<b>Foreclosures Initiated</b>	6	8	8	9
<b>Foreclosures Completed</b>	2	1	1	2

Although the number of tax liens increased each year between FY 2007 and FY 2009, the number of properties that the city moved to foreclose on and the number of properties that the city foreclosed upon remained stable. The data show that owners with delinquent property taxes in Somerville very rarely lose their properties in foreclosure.

#### B. Loan Modifications and Budget/Credit Counseling in Somerville

The flyers that volunteers leave when they go door knocking include referrals to a variety of agencies in the Metro Boston area that help homeowners who are seeking mortgage modifications. The closest local agency is Cambridge Neighborhood Apartment Housing

<sup>15</sup> From July 1, 2009 through April 5, 2010. The City of Somerville's fiscal year runs from July 1 to June 30.

Services (CNAHS). From 2008 through March 2010, CNAHS staff has had in-person counseling sessions with 28 Somerville households. As of the end of March 2010, these cases have resulted in:

- 10 permanent or trial modifications;
- 1 property that was brought current on the mortgage;
- 1 foreclosure forbearance;
- 2 cases referred for legal assistance due to bankruptcy or predatory loans;
- 4 cases where modification or other assistance was denied;<sup>16</sup>
- 4 cases that are currently pending; and
- 6 cases where the clients withdrew from the process or CNAHS lost contact with them.

Many homeowners have two mortgages and 100% financing, and if the first mortgage is modified, CNAHS often then assists them to seek modifications on the second. Of the ten cases where modifications were obtained, average monthly principal and interest payments were reduced by 39%, from \$2369 to \$1452.

CNAHS provides in-depth counseling that includes credit and debt counseling, normally through its partnership with Somerville Community Corporation (SCC). The counseling helps prevent redefaults, and in some cases homeowners are able to stabilize and remain in their homes, even though there was no modification or other relief from the loan servicer.

SCC offers financial education to Somerville homeowners at risk of foreclosure as a means to stabilize their situation and foster long-term sustainability. It provides a variety of services and opportunities, including but not limited to: budgeting help; credit and debt counseling; information about credit and assistance with accessing and interpreting credit reports and scores; disputing incorrect information on credit reports; workshops on financial literacy topics; referrals to other services (i.e. legal services when applicable); access to pro bono financial planning; and monetary assistance in certain situations. SCC staff has worked with 15 households in Somerville from March 2009 to present.

### C. Foreclosure Related Evictions

In order to get a sense of how foreclosures in Somerville have affected tenants and former owners, we cross-referenced a database of evictions in Somerville between 2006 and 2009 with our database of foreclosures.<sup>17</sup> Of 733 evictions that were filed in Somerville District Court between January 2006 and December 2009, 105 (14%) corresponded to properties that

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<sup>16</sup> Re-application does sometimes succeed.

<sup>17</sup> CAAS compiled this database by tracking Summons and Complaints at the Somerville District Courthouse.

were in some stage of the foreclosure process between January 1, 2007 and March 24, 2010. Of the 391 residential properties in Somerville that were in some stage of foreclosure between January 1, 2007 and March 24, 2010, 16% were subject to an eviction in roughly the same time period. It is likely that many other tenants and former owners vacated foreclosed or foreclosing properties after receiving a notice to quit without eviction proceedings ever being formally filed in court.

We were able to view files for 100 of those 105 cases at the Somerville District Court. Of the 100 that we viewed, 81 (81%) appeared to be directly related to a foreclosure, meaning that the Notice to Quit furnished to the tenant or former owner made reference to a foreclosure sale as the reason for the eviction. Of the remaining 19 eviction cases, 14 were brought due to non-payment of rent and 1 was brought due to destruction of property and 4 did not specify any grounds. These cases may also have been foreclosure related although there was no obvious connection documented in the court file.

Most of these evictions occurred late in the foreclosure process. Of the 100 eviction cases that we viewed, 11 (11%) were initiated before the Order of Notice, 20 (20%) were initiated sometime after the Order of Notice and before the foreclosure sale, 59 (59%) were initiated after the foreclosure sale, and 10 (10%) were initiated after a second sale that took place post-foreclosure.

Of the 81 eviction cases that appeared to be directly related to foreclosure, only 3 (4%) were initiated before the Order of Notice was issued. Twelve (15%) were initiated between the Order of Notice and the foreclosure sale, 57 (70%) were initiated after the foreclosure sale and 9 (11%) were initiated after the second sale.

*Table 8: Timeframe for initiation of foreclosure-related evictions*

	<b>Evictions initiated for properties in some stage of foreclosure</b>	<b>Directly foreclosure-related evictions initiated</b>
<b><i>Before Order of Notice</i></b>	11 (11%)	3 (4%)
<b><i>Between Order of Notice and foreclosure sale</i></b>	20 (20%)	12 (15%)
<b><i>After foreclosure sale</i></b>	59 (59%)	57 (70%)
<b><i>After subsequent sale</i></b>	10 (10%)	9 (11%)
<b>TOTAL</b>	<b>100 (viewed)</b>	<b>81</b>

In the 81 directly foreclosure-related cases, only 14 tenants were represented by attorneys while all 81 landlords were represented by attorneys. Of the represented tenants, 9 (64%) filed Answers and 8 (57%) filed requests for discovery. Of the unrepresented tenants, 13 (19%) filed Answers and 8 (12%) filed requests for discovery. Overall, most tenants did not file Answers or requests for discovery; 22 out of 81 (27%) filed answers while 16 filed requests for discovery (20%). In 15 out of 81 cases (19%), one or both parties moved to continue, or prolong, the court

proceedings, and none of those motions was contested. The average length of time between the entry date and the final disposition for directly foreclosure-related eviction cases was 22 days.

Fifty-nine out of 81 (73%) of directly foreclosure-related evictions ended with the judge granting the landlord possession of the property. Of the remaining 22 cases, 1 resulted in a formal finding of possession for the tenant (or former owner), 14 were dismissed, 5 were inactivated and 2 were still pending when we went to view the files. Although only 1 case resulted in a formal finding of possession for the tenant or former owner, the tenant theoretically would have been allowed to remain in the 20 cases that were dismissed or inactivated.

*Table 9: Outcomes of foreclosure-related evictions*

	<b>Possession for Landlord</b>	<b>Dismissed</b>	<b>Inactivated</b>	<b>Pending</b>	<b>Possession for Tenant</b>
Directly Foreclosure-related evictions	59 (73%)	14 (17%)	5 (6%)	2 (2%)	1 (1%)

In 27 of the 59 evictions that were resolved in the landlord’s favor (45 %), the tenant or former owner defaulted by failing to appear at the hearing. In no case did the tenant or former owner seek to remove the default. In 20 of the 59 evictions with a judgment for the landlord (34%), there was also an agreement for judgment. Fifteen of the 20 agreements for judgment (75 %) stayed the execution for possession (gave the tenant/former owner a specified period of time to move). In no case was the tenant or former owner given a probationary stay (the possibility of staying in the residence if certain conditions are met). In 12 out of the 59 cases with a judgment for the landlord (20%), there was only a judgment for the landlord (without an accompanying Default or Agreement for Judgment).

*Table 10: Judgment Issued for Landlord in Directly Foreclosure-related evictions*

	<b>Judgment accompanied by Default</b>	<b>Judgment accompanied by Agreement for Judgment</b>	<b>Only Judgment for Landlord</b>
Judgment for Landlord	27 (45%)	20 (34%)	12 (20%)

#### IV. What can Somerville do about Foreclosures?

##### A. Make Referrals to CAAS and CASLS

We encourage the City of Somerville to make referrals to the foreclosure resources available at CAAS and CASLS. This can be done through outreach by the City’s Department of Elder Affairs, and providing information to 311 operators and City Hall staff that may hear of homeowners or tenants in properties in danger of foreclosure. Although we knock on doors to

inform people of our services, it is often hard to reach people or to find them in time to inform of their rights before they move out.

#### B. Support Funding for CAAS and CASLS to Continue this Work

Work with CAAS and CASLS to bring new state and federal funding into Somerville to prevent foreclosures, evictions, and homelessness. Support foreclosure related work with matching funds to enable CASLS to hire an AmeriCorps paralegal next year.

#### C. Support Omnibus Housing Bill

We request that the City pass a resolution in support of the Massachusetts Omnibus Housing Bill (S2355) as a means to reducing unjust evictions and helping homeowners save their homes. The State Senate unanimously passed the Omnibus Housing Bill a few weeks ago and the House will vote on the bill by the end of June.

The Omnibus Housing Bill includes several important provisions for both homeowners and tenants at various stages of foreclosure. One provision in particular will be vital to reducing the number of tenants who are evicted after foreclosure without just cause. This provision would require lenders that acquire properties after foreclosure to allow tenants to continue to live in a foreclosed property and pay rent until a new owner purchases the property and wants the tenants to leave. Another provision in the Bill creates more of an incentive for lending institutions to negotiate directly with homeowners to avoid foreclosure. If good faith negotiations are not initiated then the penalty to the lending institution is a prolonged “right to cure” period for the homeowner from 90 to 150 days.

#### D. Call on Local Banks to Make Loans to Buy Foreclosed Properties

The City of Somerville could facilitate a meeting between local banks and Boston Community Capital to help local banks explore the feasibility of making loans to people who want to live in foreclosed properties. Boston Community Capital has been making loans to tenants and former owners, allowing them to buy or buy back their homes. This type of lending has helped keep people in their homes and maintain neighborhood stability in Boston.

#### E. Consider Passing a Local Foreclosure Ordinance

The City of Somerville should consider passing a local ordinance to respond to foreclosures. Municipalities have passed and are seeking to pass a variety of different types of ordinances to respond to the foreclosure crisis, including ordinances requiring:

- Registration and maintenance of properties in foreclosure (Boston, Everett, Lawrence, Lowell, Lynn, Medford, Revere, and Springfield);
- Owners to notify tenants of a potential foreclosure (Chicago, IL and Providence, RI);

- Mediation between the owner and the lender prior to foreclosure (Providence, RI has passed one such ordinance and Boston has filed a home rule petition seeking authority to enact a similar ordinance); and
- Moratorium on foreclosures for a period of time (both Boston and Worcester have filed home rule petitions seeking authority to enact 180 day foreclosure moratoriums).

Given the nature of the foreclosure crisis in Somerville, CAAS and CASLS would recommend that the City of Somerville consider passing a local ordinance that includes registration and maintenance requirements as well as tenant notification. We believe that such an ordinance can be passed without a home rule petition. Requiring owners of foreclosing properties to register with the City would help reduce blight and improve enforcement of building and sanitary codes by making it easier to determine who is currently responsible for property maintenances. Requiring that owners notify tenants when they register their property would help ensure that tenants learn of possible foreclosure early in the process and learn about resources in the community that can better help them understand their rights.

CAAS and CASLS would be happy to work with the City of Somerville to help draft a proposed ordinance tailored to the needs our community.

## **Appendix A: The Typical Foreclosure Process in Massachusetts<sup>18</sup>**

1) The homeowner is behind on his/her mortgage payments. The homeowner gets letters and calls from the mortgage company or the company servicing the loan, asking for the money that is owed. The homeowner should call a qualified housing counselor as soon as he/she falls behind in the mortgage to help work out a loan modification or payment plan.

2) The mortgage lender (or servicer) sends the homeowner a 90-day Right to Cure letter, giving the homeowner 90 days to pay all money that is owed to become current under the mortgage. During the 90-day period, the lender is prohibited from piling up excessive fees and penalties. The lender also has a duty to work with the homeowner to modify the loan.

3) If the homeowner and the lender cannot resolve the problem in 90 days, then the lender makes a demand for payment of the full mortgage amount and accelerates the note. The homeowner now owes the full balance, plus interest and fees.

4) The lender files a complaint in the Massachusetts Land Court under the Service Members' Civil Relief Act. The Order of Notice is mailed to the homeowner informing him/her of the court action, and a copy is also filed at the Registry of Deeds. Normally, the homeowner has no involvement in this court action. Only homeowners actively serving in the military have the ability to take advantage of this Act. If the homeowner is not in the military, then he/she does not have a right to respond to the complaint filed in Land Court.

5) The Land Court will then issue a judgment in favor of the lender, who can then proceed with the foreclosure without further involvement with the courts. This means that the lender does not need to take a homeowner to court to foreclose on his/her house. If the homeowner believes that he/she has been the victim of fraud, unfair or deceptive practices, or discrimination by the mortgage broker, lender or servicer, the homeowner should seek legal advice to determine if he/she can raise those claims against the lender AS SOON AS POSSIBLE.

7) The lender will then send the homeowner, by registered mail, a Notice of Sale, stating the date the property is scheduled to be sold at a foreclosure sale. This notice must be sent at least 14 days before the scheduled sale. The notice must also be published in the newspaper for three consecutive weeks.

8) Bankruptcy may be one option to consider. Once a homeowner files bankruptcy, he/she can generally get an automatic stay of the foreclosure – at least temporarily. Bankruptcy is a complicated legal proceeding with serious consequences. To file bankruptcy, it is best to have an experienced bankruptcy attorney – however a homeowner can file on his/her own. One can obtain the bankruptcy forms from [www.mab.uscourts.gov](http://www.mab.uscourts.gov) or by going to the Bankruptcy Court at the Tip O'Neill Federal Building, 10 Causeway Street, Boston (North Station area) – 617-565-8950

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<sup>18</sup> The following information is adapted from "Foreclosure Prevention Information and Resources" by Greater Boston Legal Services.

9) \*\*Watch out for scams! The proceeding in the Land Court is public record. Be suspicious of solicitations from unscrupulous mortgage brokers, attorneys, or lenders who obtain the homeowner's information from this public record. There are many mortgage foreclosure rescue scams out there that seek to take advantage of distressed homeowners, so be careful. A homeowner should NOT sign his/her house over to anyone saying they will pay the mortgage. We recommend that the homeowner first talk to a free, non-profit housing counselor to explore his/her options.

10) On the auction date, the homeowner's house is sold to the highest bidder.

11) Once the house is sold, the new owner can evict the homeowner. HOWEVER, the new owner must take the homeowner to court and go through the eviction process. This can take months.

12) The entire process, from the date of the first missed payment, until the date the homeowner is physically evicted from the property, can take up to nine months or longer.

13) If there is money left over from the sale after the lender is paid off, that money goes to the homeowner.

14) However, if there is not enough money gained from the sale to fully cover the amount of the loan, the homeowner may be liable for the difference. Some lenders sue homeowners for a "deficiency judgment." Homeowners may have legal defenses and not be responsible for this money. Homeowners should consult with an attorney.

## **Appendix B: Summary of Data Collection Process**

Following the instructions below will replicate our data.

1. Go to the South Middlesex Registry of Deeds online. Select “Document Search.” Enter “Order of Notice” as “Document Type.” Enter “Somerville” as “Town.” Enter “01/01/2007” to “3/24/2010” as the recorded date range. Select “Search.”
2. Select the volume number of the first order of notice to see the docket entry. Select “Quick Document Viewer” to see the document. Record desired data. Repeat this step for all the Orders of Notice recorded in the Registry of Deeds.
3. Repeat Step 1 but search for “Foreclosure Deed” instead of “Order of Notice.”
4. Repeat Step 2 for all Foreclosure Deeds recorded in the Registry of Deeds.
5. If there is no Order of Notice recorded in your database for a property with a Foreclosure Deed, search for the property and/or the owner in the Registry of Deeds to see if there is an Order of Notice filed as a Complaint. To do this, select “Registry of Deeds Search.” Then select “Property Search” and enter the street number and street name. Enter “Somerville” as “Town.” Look for any Complaints recorded. If a Complaint is recorded, click on “Quick Document Viewer” to see if it is an Order of Notice. If it is an Order of Notice, record desired data. If there is no Complaint, select “Registry of Deeds Search,” choose “Name Search,” and enter the name of the owner(s). Select “Search.” Look for any Orders of Notice listed as Complaints and record the relevant information.
6. Go to the Warren Group online database. Log-in. Select “Massachusetts” as “State.” Select “Middlesex” as “County.” Select “Somerville” as “Town.” Include “All Foreclosure (No REO).” Enter “01/01/2007” to “3/24/2010” as the date range. Select “Search Now.”
7. A list of properties will come up. Select “Include All” and “Get Full Results.”
8. A list of properties complete with details will come up. Look at the addresses in the Warren Group data and compare them to your database. Add any additional data to your database for addresses that are already listed. For example, the Warren Group often lists auction dates. If the property is not already in your database add it and enter any desired data. Note that the Warren Group lists the date of the “Petition to Foreclose,” not the date for the “Order of Notice.” Although these are related documents, the date on each will be slightly different. See Appendix A for a general overview of the foreclosure process in Massachusetts.
9. Next, search for each property in your database in the Registry of Deeds to determine if the property was sold during or after the foreclosure process. To do this, go back to the Registry of Deeds online database and follow steps above for “Property Search” under Step 5. Search for any deeds filed after the Order of Notice or Foreclosure Deed.