

# Court puts legal cloud over foreclosure sales

By Jerry Kronenberg | Tuesday, June 9, 2009 | <http://www.bostonherald.com> | Real Estate

A Springfield judge's ruling has thrown the entire Massachusetts foreclosure market into disarray by bolstering claims that lenders improperly seized thousands of Bay State homes.

Experts say Land Court Judge Richard Long's recent decision to void two Springfield-area foreclosures over procedural flaws has gummed up resale of foreclosed homes across the state.

"It's just stopped everything," said North Andover broker Linda Kody, who specializes in reselling foreclosed properties for banks.

Kody said Long's ruling, first reported yesterday by industry publication Banker & Tradesman, has halted at least 12 of her resale deals.

Would-be buyers can't get title insurance on homes with "clouded" ownership, Kody said, and banks, in turn, generally won't OK mortgages without title coverage.

Long ruled that due to faulty paperwork, U.S. Bank and Wells Fargo Bank don't really own the Greater Springfield homes that each foreclosed upon separately in 2007.

The judge found that the banks held foreclosure auctions even though both lacked documents at the time proving that they really owned the homeowners' mortgages. That "clouded" each property's title, discouraging any third party from bidding on the homes, Long ruled.

"None of this is the fault of the (homeowner), yet the (consumer) suffers due to fewer or no bids in competition with the foreclosing institution," the judge wrote in his decision.

Experts say paperwork flaws are common in foreclosures these days, as mortgages often changed hands over and over again during the 1998-2005 housing boom. Any missing paperwork can call into question whether a bank really owned a loan it foreclosed upon.

Lawyer Gary Klein, who's filed a federal class-action lawsuit aimed at undoing some 2,000 Bay State foreclosures on such grounds, said Long's ruling strengthens his case. "Lenders simply stopped following the law for their own convenience," Klein said.

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