

Bond Case Briefs

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FORECLOSURE - MASSACHUSETTS

Easthampton Sav. Bank v. City of Springfield

Supreme Judicial Court of Massachusetts, Suffolk - December 19, 2014 - N.E.3d - 2014 WL 7192460

Several banks brought action for declaratory and injunctive relief against city, challenging ordinances that required property “owners,” which was defined to include mortgagees that had initiated foreclosure proceedings, to maintain property during foreclosure and post a \$10,000 cash bond per foreclosure to the city, and that required mortgagees to attempt a settlement before foreclosing. City removed case to federal court. The District Court granted summary judgment for city. Banks appealed. The Court of Appeals certified question.

The Supreme Judicial Court of Massachusetts held that:

- Portion of foreclosure ordinance establishing a program requiring mandatory mediation conflicted with state foreclosure statute;
- Portion of ordinance requiring owners to register with the city did not conflict with foreclosure statute;
- Portion of ordinance requiring owners to register with the city conflicted with Oil and Hazardous Material Release Prevention Act;
- Portion of ordinance requiring owner to post a bond to ensure compliance with the ordinance, conflicted with state Sanitary Code; and
- Administrative fee was a lawful fee, rather than a tax.