

# Portions of Providence Municipal Foreclosure Ordinance Overturned

May 2010

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On May 17, 2010, Judge Lanphear of the Providence Superior Court found portions of Providence's local foreclosure ordinance to have been preempted by state law. The court found that Providence's attempt to bar foreclosure deeds from being recorded, where the lender had not complied with the city's mediation requirement, violated the state-wide recording statute which requires all recorders of deeds to accept certain instruments for recording. The bar to recording was found to be disruptive of the state's overall scheme of regulation of the conveyance of real estate and recording of instruments.

What is not clear in the court's ruling is whether the City's mediation requirement can be enforced in any other way, since the "Court is satisfied that the City's overall intention is to *encourage* foreclosing lenders to engage in conciliation with defaulting borrowers . . . ." (emphasis added.) The issue will remain open as to whether the ordinance has any effectiveness or is merely aspirational. What is safe to say is that Cranston's and Warwick's municipal foreclosure ordinances will be similarly defective as to barring non-compliant foreclosure deeds from being recorded.

[For a copy of the decision, please click here.](#)