



Dear Stewart Partners,

Although the dog days of summer are largely in the rearview mirror, many of us consider fall to be the best season in New England. We hope you can get out there and enjoy those changing leaves. In this week's Midweek Update, we cover entity signatory authority in Massachusetts, a recent Maine Supreme Judicial Court decision on adverse possession, and we direct you to a very informative economic report prepared for our agents by our in-house market and economy experts.

Lastly, there's still time to register for the Massachusetts Underwriter's Talk Title September webinar today at 11 AM. See the link below for information.



Signatory Authority for Mortgage Holders in Massachusetts-Who can sign documents ? By Mark Jones, Esq., Associate Senior Underwriting Counsel for Massachusetts and Rhode Island

Whenever we are dealing with an entity such as a corporation or an LLC we always need to be mindful of who can sign on behalf of the entity. For corporations in Massachusetts, the President or Vice President AND Treasurer or Assistant Treasurer must sign unless there is a corporate vote/resolution naming another individual. For LLCs a Manager or Authorized Signatory, as identified in the corporate filings, can sign. Easy enough right? Unfortunately, when you're dealing with big banks many are formed in other states and the individuals with those positions are not always available to sign the thousands of documents that need to be signed on a daily basis. Thankfully the Massachusetts legislature passed M.G.L. c. 183 § 54B that allows nearly any employee to sign most documents on behalf of the mortgage holder. Here is the text of the statute:

Section 54B: Mortgage discharge, release, assignment, foreclosure, etc.; execution before officer entitled to acknowledge instruments; effect

Notwithstanding any law to the contrary, (1) a discharge of mortgage; (2) a release, partial release or assignment of mortgage; (3) an instrument of subordination, non-disturbance, recognition, or attornment by the holder of a mortgage; (4) any instrument for the purpose of foreclosing a mortgage and conveying the title resulting therefrom, including but not limited to notices, deeds, affidavits, certificates, votes, assignments of bids, confirmatory instruments and agreements of sale; or (5) a power of attorney given for that purpose or for the purpose of servicing a mortgage, and in either case, any instrument executed by the attorney-in-fact pursuant to such power, if executed before a notary public, justice of the peace or other officer entitled by law to acknowledge instruments, whether executed within or without the commonwealth, by a person purporting to hold the position of president, vice president, treasurer, clerk, secretary, cashier, loan representative, principal, investment, mortgage or other officer, agent, asset manager, or other similar office or position, including assistant to any such office or position, of the entity holding such mortgage, **or otherwise purporting to be an authorized signatory for such entity, or acting under such power of attorney on behalf of such entity**, acting in its own capacity or as a general partner or co-venturer of the entity holding such mortgage, shall be binding upon such entity and shall be entitled to be recorded, and no vote of the entity affirming such authority shall be required to permit recording.

You'll notice that the statute allows a person otherwise purporting to be authorized signatory to sign a myriad of documents listed above. This broad category includes a vast group of individuals who can sign on behalf of a mortgage holder with claimed authority. Of course, this comes with some caveats. As noted above, one of the documents is "any instrument for the purpose of a foreclosure and the title resulting therefrom." Title resulting therefrom includes REO (Real Estate Owned) deeds. These are deeds given subsequent to the foreclosure deed where the lender was the highest bidder and deeds to itself. The next deed out from the lender can be signed pursuant to requirements of the statute because that is considered an REO deed. A Deed in Lieu of Foreclosure, on the other hand, does not fall under the purview of the statute, so traditional signatory requirements apply and authority needs to be documented in the record. The reason for this is because the borrower is voluntarily conveying the property to the bank or mortgage holder and the deed is not part of the foreclosure process or title resulting therefrom. Another common example would be Mortgage Amendments and Modifications. Those would not fall under the statute either and again traditional signatory requirements apply.

REBA Title Standard No. 42 provides guidance and is helpful in determining whether the signature by an individual on behalf of a mortgage holder requires recorded documentation of authority.

As always please contact an underwriter if you have any questions relating to this topic.



Maine Supreme Judicial Court Issues Adverse Possession Decision

By Zachary I. Greenfield, Maine State Counsel

In Longview Hotel Condominium Association v. Peral Inn Condominium Association, 2024 ME 69, Maine’s highest court reiterated the elements required to establish adverse possession, paying particular attention to the element of continuous use. The case involved two waterfront condominium developments in Old Orchard Beach, Maine. For a prolonged period of time, unit owners of Pearl Inn Condominium Association (“Pearl”) parked their vehicles on a portion of the common area owned by Longview Hotel Condominium Association (“Longview”). Longview sued Pearl for, among other things, common law and statutory trespass, nuisance, and a judgment determining that Longview owned the disputed parking area. Pearl counterclaimed, asserting that it had either obtained a prescriptive easement, title by adverse possession, or that the parties had established the boundary by acquiescence. After a bench trial, the court found that Pearl established title to the disputed area by adverse possession. Longview appealed to the Maine Supreme Judicial Court, arguing in part that a party cannot establish adverse possession by seasonal use only.

According to the Maine Supreme Judicial Court, in order to prevail on a claim of adverse possession, a “party must show by a preponderance of the evidence that its possession and use of the disputed land was (1) actual; (2) open; (3) visible; (4) notorious; (5) hostile; (6) under a claim of right; (7) continuous; (8) exclusive; and (9) of a duration exceeding the twenty-year limitations period” (quotation marks omitted) *Id.* ¶ 18. Addressing Longview’s argument that seasonal use is insufficient to establish adverse possession, the appeals court noted that the evidence admitted at trial “clearly established that the adversely possessed area was used for decades by owners and occupants of the Pearl building . . . Some of them resided in the Pearl building year-round and used the disputed area for parking daily . . . Others, including the owner, used Unit 1 on a periodic basis or seasonally, and parked in the disputed area regularly while there.” *Id.* ¶ 22. As such, “[t]he trial court correctly determined that, in these circumstances, continuous use does not require a full-

time resident to park in the [disputed area] seven-days-a-week, year round.” (quotation marks omitted) Id. ¶ 22. Although the court remanded the case back to the trial court to fashion a more appropriate description of the adversely possessed land, the case stands for the proposition that seasonal use can be considered in establishing adverse possession.

To read the full case, follow this link:

<https://www.courts.maine.gov/courts/sjc/lawcourt/2024/24me069.pdf>

From time to time, you may be asked to insure an interest – usually an access right – based on adverse possession or prescription. Even if you are convinced that the proposed insured has met the required elements of adverse possession, it is important to remember that only a court can make that determination. In other words, in the absence of a final judgment determining title based on adverse possession or an easement based on prescription, title almost always remains unmarketable. As such, please be sure to contact your Stewart underwriter if anyone asks you to insure title in this matter.



Stewart Releases Q3 2024 Economic Summary Report

At the half-year mark, optimism that the Federal Reserve will implement rate cuts in the third quarter is strengthening – this time with reason. After three consecutive months of a downward trend, continued inflation could be in the rear-view mirror. However, inflation followed a similar trend in September, October, and November last year, so pure, near-term optimism could still be a bit hasty.

In his recent testimony to Congress, Fed Chairman Jerome Powell stated that inflation reports covering the first three months of this year did not boost Fed officials' confidence that inflation was coming under control. However, he followed by saying, “The most recent monthly [inflation] readings have shown modest further progress and more good data would strengthen our confidence that inflation is moving sustainably toward 2%.” More good data? Is that one, two, three more months of positive inflation reports? Timing will be everything to impact the remainder of the year.

In the meantime, what should title agents do to best position themselves against these trends? Stewart Vice President of Financial Planning and Analysis, Jeff Lanier, has prepared a detailed, extensive report on Q3 2024 economic data and how it affects your

market. The report can provide valuable guidance on the future of interest rates, listing prices and whether that will spur potential business. Stewart understands you have questions and concerns and Jeff has done his utmost to address them in his report.

Report Highlights:

Will the election make a difference in how the Fed acts near term?

What are the inflation rate trends now?

Are rate cuts already baked into the forecast?

What should agents think about as they enter 2025 budgeting and strategy sessions?

Unknown still is what the Fed's cadence might be for rate cuts in 2025. Consideration must be given to the potential for higher prices and the duration of a workout period for the lock-in effect, shifting homeowners out of their sub-4-percent mortgages back to a broader historical norm of 6 to 6.5 percent. How long will that workout take and at what pace? Trust the report to have your best interests in mind as you read and sift the data.

You may download the full report here: [3Q24 Agency Economic Summary | Stewart](#)



Webinar: MA Underwriters Talk Title, September installment – TODAY

Join Tracie Kester, Esq., Associate Senior Underwriting Counsel for Massachusetts for our September webinar called “What Does That Mean??”

The webinar will take place today at 11AM, but there is still time to register. The webinar will focus on some common and not so common terms and phrases encountered in recorded documents. Tracie will highlight the impact and meaning of the terms and what you need to know when you encounter them.

[Massachusetts Underwriters Talk Title Registration Link](#)



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