

# IOLTA hit by decline in rates, home sales

Barbara Rabinovitz, *Massachusetts Lawyers Weekly*

November 3, 2008

As interest rates and real estate transactions continue their downward slide, so goes the amount of money available to legal services programs through the collection of Interest on Lawyers' Trust Accounts, or IOLTA.

According to Jayne B. Tyrrell, executive director of the Massachusetts IOLTA Committee, the amount of interest collected from the accounts this year, through the end of September, was \$13 million, down from \$31 million in 2007.

Tyrrell attributed the steep decline to two factors: interest rates that are hovering around 1 percent and a dormant housing market, which is keeping balances in the IOLTA accounts maintained by attorneys at historically low levels.

Established by the Supreme Judicial Court in 1989, the IOLTA program requires a lawyer holding funds on behalf of a client to deposit them in an interest-bearing account for the client or, if the funds are modest and are to be held only for a short time (as in a real estate purchase transaction), in an IOLTA account.

Over the years, the pooled accounts have generated millions of dollars in interest that, in turn, has been funneled to the Massachusetts Legal Assistance Corp. and the Massachusetts and Boston bar foundations for distribution to agencies providing legal services to people in need.

Tyrrell said last week that she has informed MLAC and the bar foundations about the sharply reduced interest income from the IOLTA accounts. Offering a couple of examples of the impact on the agencies benefiting from the IOLTA income, she noted that Neighborhood Legal Services in Lynn will be hit with a 29 percent decrease in its current budget and Greater Boston Legal Services will see its budget trimmed by 13 percent.

The cuts are especially hurtful in a weak economy when the need for legal advice and representation "has never been more critical," Tyrrell said, especially in such areas as housing, sustenance, safety, health care and child custody.

If there is one bright light in this otherwise-gloomy picture, it would seem to be the rate-parity requirement that the SJC made effective as of Jan. 1, 2007. Massachusetts attorneys, bound by IOLTA rules, are mandated to open accounts only at those banks ensuring that IOLTA accounts receive the highest interest generally available to a bank's non-IOLTA customers.

Nearly all of the state's 200-odd financial institutions have complied with the SJC parity order, according to Tyrrell, and that compliance has helped increase the interest generated by IOLTA accounts. "Before rate comparability," she recalled, "when the rates went down to 1 percent, the average interest rate on an IOLTA account was .36 percent."

Nonetheless, rate parity apparently will do little to change what Tyrrell calculates will be "more than a 50 percent decrease" from what the accounts were generating in a more buoyant economy of yesteryear.