



# LiUNA!

June 26, 2009

TERENCE M. O'SULLIVAN  
*General President*

ARMAND E. SABITONI  
*General Secretary-Treasurer*

*Vice Presidents:*

VERE O. HAYNES

MIKE QUEVEDO, JR.

TERRENCE M. HEALY

RAYMOND M. POCINO

JOSEPH S. MANCINELLI

ROCCO DAVIS  
*Special Assistant to the  
General President*

VINCENT R. MASINO

DENNIS L. MARTIRE

MANO FREY

ROBERT E. RICHARDSON

JOSE A. MORENO

RALPH E. COLE

JOHN F. PENN

JOHN F. HEGARTY

MICHAEL S. BEARSE  
*General Counsel*

Attorney General Catherine Cortez Masto  
State of Nevada  
Bureau of Consumer Protection  
555 East Washington Avenue, Suite 3900  
Las Vegas, Nevada 89101

Dear Attorney General Masto:

Enclosed please find consumer complaints from eighteen families about the sales and lending practices of four major home builders and their affiliated mortgage companies.

These complaints against KB Home, Lennar, Pulte, and Centex demonstrate that the abusive and deceptive practices contained in the complaints are not limited to one company but are an industry wide problem. There are striking similarities among the homebuyers' experiences, indicating that these are standard practices in the industry.

Together, the individual complaints also highlight the role that homebuilders played in the boom, bubble, and bust that brought on the current crisis. They continued to build, buy land and push mortgages even though there were clear signs the housing market was not sustainable and that homebuyers were financially over their heads. In the process, they misled homebuyers about the deals they were getting and pushed them into mortgages that were unfair and deceptive.

Homeowners in new developments have been especially hard hit by the current housing crisis and their subdivisions are in a unique situation. Unlike older, existing neighborhoods where there is a mix of when homeowners received their mortgages and how much equity they have, new subdivisions have concentrations of homeowners who purchased their homes within a year or two of each other.

The following is a summary of the sales and lending practices described in the complaints.

HEADQUARTERS:  
905 16th Street, NW  
Washington, D.C.  
20006-1765  
202-737-8320  
Fax: 202-737-2754  
www.liuna.org

*Feel the Power*

### Steering

The homebuilders' sales staff directed home buyers to their affiliated mortgage lenders in order to control the buying process, ensure the sale of homes at a higher price than might be the case if there were the involvement of third party lenders, and earn additional fees.

In several cases, the buyers report that they didn't know they had a choice about where to get their mortgage. In other cases, the builders promised deep discounts on the prices of the home, construction upgrades, and/or free closing costs if they used the builders' mortgage companies. The promised benefits were more than made up for by inflated appraisals, unfavorable mortgage terms, or other fees. Buyers who became wary of the terms of the mortgages were threatened with losing their deposits if they walked away from the mortgage.

### Mortgage Terms

Most of the homebuyers report having very high credit scores and putting down large downpayments but insist that they received mortgages with terms that were not what they wanted or what they thought they were getting, such as interest-only, adjustable rate loans and piggyback and disguised second mortgages with high interest rates and balloon payments. Some found out about these terms at closing, but by then it was too late. Others found out about the terms after they were in the home.

In some of the cases, the buyers were Spanish speakers who generally did not read or write English. The Lennar sales and loan representatives conducted the transactions primarily in Spanish, but mortgage documents were provided only in English, making it even less likely that buyers would understand or reject the mortgage terms.

In other cases in Nevada and other states the homebuilders' sales representatives discouraged homebuyers' away from better loans, including credit union and Veterans Administration loans, misrepresenting the availability or terms of those loans and promising more favorable terms.

### Inflated Appraisals

The complainants all believe now that their homes were over priced and that the appraisals seriously overstated their homes' value. There is evidence that this may have been a common practice among builders.

We have been conducting reviews of appraisals that were done by Countrywide/KB Home Loans on homes that were being sold in Arizona by KB Home. The reviews have found a number of irregularities, such as that

the appraisers overlooked sales that were more similar in size and closer geographically in favor of sales of homes of dissimilar sizes that were much farther away (10 miles in one case).

The homeowners whose appraisals we reviewed are now the plaintiffs in a \$2.8 billion class action lawsuit filed against Countrywide KB and its appraisal firm Landsafe. Another Countrywide KB lawsuit includes a former regional vice president and manager claiming wrongful termination after he reported fraudulent lending practices to superiors and refused to approve mortgages for unqualified applicants. Among other things, he alleges "being strongly encouraged to inflate homes' appraised values by as much as 6 percent" resulting in buyers owing more than their home was worth.

We believe that similar claims may exist against the other homebuilders.

#### Disguised Second Mortgages

Many homebuyers report not knowing that they received a second mortgage until they closed on their new homes. These second mortgages were described as home equity lines of credit (HELOCs). However, the HELOCs were in fact second mortgages: they were for the balance of the purchase price and were fully drawn down at closing. Homebuyers weren't told the monthly payment, as is required for closed-end second mortgages under the Truth in Lending Act (though open-ended HELOCs are exempt). These seconds also contained adjustable interest rates that could go up to 18% and had interest only payments.

#### False Promises of Refinancing

The builders and their mortgage lenders routinely misrepresented to the homebuyers that they would be able to refinance and therefore shouldn't worry about the adjustable rates or high rate second mortgages. However, homes experienced such dramatic decreases in value that refinancing was virtually impossible.

#### Large Increases in Monthly Escrow Payments

Almost every new home has an enormous increase in property taxes the second year due to the fact that the first year's taxes were based on only the lot and not on the home. This is a fact that was clearly known by the builders and their mortgage companies, but not by the buyers – buyers whose affordability was already stretched so far that the lenders gave them interest-only ARMs and second mortgages with balloon payments to qualify them for the purchase. The property tax increases were substantial and created hardships for many buyers.

We ask that you investigate the practices outlined in this complaint to secure relief for these homeowners and to bring about needed reform in this industry. Please let us know if you have any questions or if we can provide any additional information or assistance.

With kind regards, I am

Very truly yours,

A handwritten signature in black ink that reads "Michael S. Bearse". The signature is written in a cursive style with a large, prominent initial "M".

MICHAEL S. BEARSE  
General Counsel

ar  
Enclosures