

**CRUEL HOPE:
The Abusive Practices
of Homebuilders
and Their Mortgage Subsidiaries
in California**

APRIL 2009

LiUNA!

**The Alliance for Homebuyer Justice,
a Project of the
Laborers' International Union of
North America**

Table of Contents

Introduction	5
Summary of Findings	6
Homebuilders and the Housing Crisis	7
Where the Foreclosures Are	9
The Increase in FHA Loans and Foreclosures	11
How Homebuilders Control the Buying Process	13
A Closer Look: Riverside and San Bernardino Counties	16
What Needs to Be Done	20
About the Alliance for Homebuyer Justice and LIUNA	21
Endnotes	22



IMELDA SANCHEZ *I didn't think I made enough money to buy the \$325,000 house from KB Home. So I was surprised that Countrywide KB Home Loans approved me for it. When I saw how much the payments were going to be, I told KB that I couldn't afford it, but the sales person said that because they had approved me for the mortgage, if I backed out I would lose my \$3,000 deposit. The sales person also told me housing prices were going up so fast that if I didn't buy now I would never have the American dream for my children.*

Introduction

IN FEBRUARY 2009, California Assemblymember Manuel Perez introduced AB 1534—the Homebuyer Protection Act—to prohibit homebuilders from originating the mortgages that are used to purchase their homes.

The goal of the bill is to help prevent a recurrence of the environment that caused the current housing and economic crisis and to give future homebuyers more choice in how to finance new homes, without abusive or high-pressure tactics.

Many homebuilders want to be seen as passive victims of the current housing crisis. The reality is that some builders played a large role in creating the crisis. They kept building, kept buying land, and kept pushing their mortgage products even though there were clear signs the housing market was not sustainable and that homebuyers were financially over their heads. In the process, they did little to stop speculators and investors from snapping up property and artificially driving up prices. The bursting bubble has had a devastating effect on entire subdivisions, where property values have plummeted and communities have become foreclosure ghost-towns.

Most corporate homebuilders operating in California have mortgage subsidiaries which provide financing for the vast majority of their homebuyers—in some cases up to 90 percent of the builder’s customers. At the height of the housing boom in 2005 and 2006, homebuilders increasingly marketed predatory and risky mortgages such as those with adjustable rates,

interest only payments, no income verification, or piggyback loans with high-cost second mortgages, in order to qualify customers for houses which were sold at what are now clearly inflated prices.

Homeowners in new developments have been especially hard hit by the current housing crisis, and the worst is yet to come. Issues relating to the housing crisis such as foreclosure are not limited to new subdivisions. However new subdivisions have been harder hit. Unlike older existing neighborhoods, where there is a mix of homeowners with recent mortgages and those with older mortgages, new developments have a concentration of homeowners who purchased their homes within a year or two of each other.

The abusive sales and lending practices that some homebuilders engaged in have resulted in a record number of foreclosures that threaten to destroy entire communities. Los Angeles and Riverside counties, the two counties in California with the largest number of new housing units built from 2000 to 2006¹ have also consistently lead the state and often the country in foreclosures. According to RealtyTrac, in February 2009, Los Angeles County had more new foreclosures than any county in the nation. Riverside County had the fourth-highest number of new foreclosures.

In order to protect homebuyers, communities, and shareholders from future crises caused by builders’ practices, the Assembly should pass AB 1534 and prohibit homebuilders from originating mortgages.

Summary of Findings

HOMEBUILDERS IN RIVERSIDE AND SAN BERNARDINO COUNTIES became increasingly reliant on the use of risky subprime mortgages in order to sell their homes and to continue inflating the housing market bubble. Subprime loans made up a much greater percentage of the mortgages originated by builders in 2006 than in the previous years.² For instance:

In 2004, subprime loans made up just 6 percent and 2 percent respectively of the first and second purchase loans made in Riverside and San Bernardino by the mortgage subsidiaries of D.R. Horton and Lennar. By 2006, subprime loans accounted for 36 percent of D.R. Horton's mortgages and 31 percent of the loans at Lennar.

The collapse of the subprime market eliminated the mortgage products that builders had come to rely on. Without subprime loans, mortgage lenders had to find new product options. Over the last two years homebuilders have become increasingly reliant on Federal Housing Administration loans to sell their homes. As builders have steadily increased the number of FHA loans they originate, the percentage of their loans in default has also

steadily increased and now surpasses the average default rates among all lenders.

The increase in both FHA originations and defaults can be seen at the two builders who originated the greatest number of FHA loans nationally over the last two years, D.R. Horton and Lennar.

In 2007-2008, Lennar's mortgage subsidiary Universal American originated 10,441 FHA loans. During the previous two years, Universal American originated less than half as many, just 4,990.

D.R. Horton's mortgage subsidiary DHI Mortgage originated 12,410 FHA loans in 2007-2008, compared to just 6,729 in 2005-2006.

The default rates at both D.R. Horton (5.5 percent) and Lennar (5.8 percent) are now above the national average of 5.2 percent.

In California, seven of the 10 largest homebuilders now have default rates higher than the average among all lenders for FHA loans originated in California.

Homebuilders and the Housing Crisis

BUILDERS STEER HOMEBUYERS to their in-house mortgage units in order to control the buying process and to ensure that they are able to sell their homes at a higher price than might be the case if there were the involvement of third party lenders.

Mortgage lending by homebuilders was a key factor in how the builders contributed to the current housing and foreclosure crisis. The exponential increase in homebuilders' origination of subprime and exotic loans enabled builders to continue to sell homes even after markets were overbuilt.

Subprime Mortgages

Nationally, big homebuilders became increasingly reliant on the use of higher cost subprime mortgages in order to sell their homes. In 2006, subprime loans made up a much greater percentage of the total loans originated by builders than in 2005 and 2004³.

In fact, from 2004 to 2006 the largest homebuilders had a much greater percentage increase in the number of subprime loans they issued than prime loans. For instance, the number of subprime mortgages originated by Pulte in 2006 was almost twenty times more than in 2004 while their prime mortgage originations were less than twice as much.

Percentage of Purchase Mortgages that are Subprime (First and Second Liens)

Lender/Builder	2004	2005	2006
DHI Mortgage/ D.R. Horton	4.9%	18.1%	24.3%
KB Home/Countrywide KB	13.3%	23.5%	30.5%
Universal American/ Lennar	4.0%	8.1%	26.0%
Pulte	1.1%	6.4%	10.3%

Home Purchase Mortgages (First and Second Liens)

Lender/ Builder	Prime Loans			Subprime Loans		
	2004	2006	% Change	2004	2006	% Change
DHI Mortgage (D.R. Horton)	16,200	27,862	72%	842	8,942	962%
KB/Countrywide KB	4,236	11,845	180%	651	5,200	699%
Pulte	11,569	22,067	91%	131	2,531	1,832%
Universal American/Lennar	10,716	17,730	66%	443	6,227	1,306%

Piggyback Mortgages

A third to one-half of mortgages by these builders in 2006 also had a second mortgage. These were almost always 80/20 loan combinations, in which the builder gave the homebuyer a first mortgage for 80 percent of the home's value and a second mortgage for 20 percent of the value.

The large number of homebuyers with first and second mortgages is significant because these homebuyers now have negative equity, and also because the majority of second mortgages made by these builders were subprime loans with high interest rates. Many homebuyers with prime first mortgages received second mortgages with subprime rates.

Percentage of Mortgages with a Piggyback 2006

DHI Mortgage (D.R. Horton)	48 percent
KB/Country-wide KB	38 percent
Pulte	29 percent
Universal American (Lennar)	32 percent

Percentage of Second Mortgages that are Subprime 2006

DHI Mortgage (D.R. Horton)	45 percent
KB/Country-wide KB	44 percent
Pulte	36 percent
Universal American (Lennar)	67 percent

Where the Foreclosures Are

In February 2009 the top five counties with the most new foreclosures, according to RealtyTrac were:

Rank	County	Number of New Foreclosures
1	Los Angeles, CA	16,182
2	Maricopa, AZ	13,826
3	Clark, NV	13,100
4	Riverside, CA	9,783
5	San Bernardino, CA	8,257

One thing that these counties had in common was large growth in population and new construction in the first part of the decade.

Population Growth 2000–2006⁴

Rank	County
1	Maricopa, AZ
2	Harris, TX
3	Riverside, CA
4	Los Angeles, CA
5	Clark, NV
6	San Bernardino, CA

These counties also were among those that had the most new construction. Maricopa County, AZ consistently lead the nation in the number of new housing units built, averaging about 47,000 new homes a year from June 30, 2003 to July 1, 2006⁵. Clark County, Nevada had third greatest housing growth in the country during this period, and Riverside County, CA was fourth.

Speculative Investors

It would seem from the outside that the growth in housing units was the result of the population increase, but those closer to the scene saw other factors at play. A report from Arizona State University noted:

Although some of the growth can be attributed to people moving to the area and new households being formed, much of the hyperactivity of 2003-2005 was driven by people seeking investment opportunities through rentals and/or flipping. As prices accelerated over those years, it drew in more and more people who did not want to be left out of the booming housing market whether they were occupants or investors.⁶

The massive amount of speculation raised overall housing prices, resulting in greater profits for builders and greater reliance on subprime and risky mortgages—as well as rising costs for buyers. “We now find out in hindsight [the speculative building] played an important role and a very dangerous role,” the National Association of Homebuilders said regarding speculators.⁷

Some builders have now acknowledged that investors accounted for a larger number of their home sales—as many as one in four in certain markets.⁸

Builders commonly had prospective buyers sign a form affirming that they intended to live in the property, and many speculators lied on this form. Fraud experts say builders could have done much more, such as using credit reports to see if a buyer had mortgages on multiple properties

to verify whether a buyer was looking for their primary home or for an investment. “There’s a lot of telltale signs,” said Frank McKenna, chief fraud strategist for BasePoint, which develops computerized fraud-detection tools. But “the industry was very focused on volume,” he said.⁹

The result of investors being given free reign would later be that entire communities of homeowners—who played no part in creating the current crisis other than seeking their American Dream—are suffering the consequences.

KB Home Case Study

A 2005 audit of KB Home by the U.S. Department of Housing and Urban Development (HUD) exposed the conflict of interest inherent in builders originating their own mortgages and the loss of homes that can result.

HUD selected KB Home Mortgage for review “due to high default and claim rates....At the time of

the selection, KB had the highest default and claim rate nationally of the largest 28 lenders (253 percent of average).”

The audit found that KB Home was not “in compliance with HUD requirements or prudent lending practices” and that all of the loans reviewed had “deficiencies that should have precluded their approval.” The audit stated:

“KB apparently acceded to the interests of the parent builder/seller (KB Home) or their own bottom line. KB Home is in the business of building and selling homes, and the sales cannot be consummated unless its prospective buyers are approved for home mortgage loans. Similarly, KB does not earn origination or other fees on loans that are not approved, and KB Home is the source of virtually all KB loans. Three former KB underwriters told us that if the builder wanted a loan approved, it would be approved.”¹⁰

The Increase in FHA Loans and Foreclosures

THE COLLAPSE OF THE MARKET for subprime mortgages eliminated products that builders had come to rely on. In 2007, subprime loans made up a much smaller percentage of builders' mortgages than in 2006.

Without the subprime lending tool, corporate homebuilders have turned to FHA loans. As builders have steadily increased the number of FHA loans they originate, the percentage of their loans in default has also steadily increased. Of the

10 largest homebuilders, seven¹¹ now have default rates that are higher than the average among all lenders for FHA loans originated in California.¹²

The increase in both FHA originations and defaults can be seen at the two builders who originated the greatest number of FHA loans over the last two years—D.R. Horton and Lennar. The default rates at D.R. Horton (5.5 percent) and Lennar (5.8 percent) are both now above the national average (5.2 percent).

Riverside and San Bernardino Counties-First and Second Lien Purchase Mortgages

Builder/ Lender	Percentage of loans that were subprime in 2006	Percentage of loans that were subprime 2007
D.R. Horton/DHI Mortgage	35.8%	14.2%
Pulte	12.7%	5.9%
KB/Countrywide KB	31.3%	18.8%
Lennar/Universal American	21.1%	9.6%

FHA Loans Originated in California in 2007 and 2008

Builder/ Lender	Percentage of loans that have defaulted
Beazer	7.7%
Ryland	5.9%
D.R. Horton	3.2%
Centex/CTX	3.0%
Pulte	2.8%
Richmond American/HomeAmerican	2.8%
Lennar/Universal American	2.4%
AVERAGE AMONG ALL LENDERS	2.1%
Hovnanian	1.4%
Countrywide KB	0%
Ryan/NVR	N/A

In 2007-2008, Lennar’s mortgage subsidiary Universal American originated 10,441 FHA loans. During the previous two year period 2005-2006, Universal American originated less than half as many, just 4,990.

Of the FHA loans Universal American originated in 2007 and 2008, 5.8 percent have already defaulted. In contrast, just 3.6 percent of the FHA loans Universal American originated in 2005 and 2006 defaulted within the first two years.

Two-Year Period Ending	Lennar/Universal American Mortgage Co.		Percentage of All FHA Loans in Default Within 2 years
	Number of FHA Originations	Percentage of Defaults Within Two Years	
12/31/2008	10,441	5.83%	5.23%
6/30/2008	7,871	3.76%	4.68%
12/31/2007	6,075	3.46%	5.45%
6/30/2007	5,180	2.92%	4.94%
12/31/2006	4,990	3.63%	5.57%

In 2007-2008, D.R. Horton’s mortgage subsidiary DHI Mortgage originated 12,410 FHA loans. During the previous two year period 2005-2006, Universal American originated just 6,729.

Of the FHA loans DHI Mortgage originated in 2007 and 2008, 5.5 percent have already defaulted. In contrast, just 2.8 percent of the FHA loans DHI Mortgage originated in 2005 and 2006 defaulted within the first two years.

Two-Year Period Ending	D.R. Horton/DHI Mortgage		Percentage of All FHA Loans in Default Within 2 years
	Number of FHA Originations	Percentage of Defaults Within Two Years	
12/31/2008	12,410	5.46%	5.23%
6/30/2008	9,600	4.14%	4.68%
12/31/2007	8,180	3.57%	5.45%
6/30/2007	7,290	2.84%	4.94%
12/31/2006	6,729	2.82%	5.57%

How Homebuilders Control the Buying Process

BUILDERS STEER HOMEBUYERS to their affiliated mortgage lenders in order to control the buying process and ensure that they are able to sell their homes at a higher price than with a third party lender with stricter appraisal and underwriting standards.

The chart below shows the percentage of a builder's customers who used the builder's affiliated

mortgage lender to purchase their home, known in the industry as a "capture" rate.

How do homebuilders achieve such a high capture rates? They do so through a combination of the proverbial carrot and stick. Homebuilders simultaneously entice and frighten buyers into using their affiliated mortgage lenders.

The Carrot

Builders offer incentives such as paying a buyer's closing costs that are only available to homebuyers who use the builders' affiliated mortgage lender. Homebuyers automatically assume that this savings on closing costs is the best deal available, which deters comparison shopping with other mortgage companies which might be able to offer a better rate or type of loan.

Homebuilder Mortgage Capture Rate 2006

Builder	2006 Capture Rate
D.R. Horton ¹³	68%
KB/ Countrywide KB ¹⁴	57%
Lennar ¹⁵	66%
Pulte ¹⁶	91%



TERESA SANDOVAL bought a home from Lennar and received financing through Lennar's subsidiary Universal American Mortgage. Lennar paid \$15,000 for closing costs. Although \$9,000 of this went for discount points on Ms. Sandoval's two loans, it is difficult to see what discount she received. At the time of her loan, the average rate on a 30 year fixed rate mortgage was 6.4 percent. Ms. Sandoval had a 6.75 percent rate on her first mortgage and 12.125 percent on the second.

However, there have been a number of transactions in which the builder offered to pay a large amount of money—such as \$20,000 to \$25,000—ostensibly for items such as discount points, even though the buyer did not receive a lower interest rate.

Jesus Beltran purchased a home from KB in Coachella, California in May 2007 with financing from Countrywide KB Home Loans. KB paid \$10,000 for his closing costs. All of the costs went towards paying \$12,698 of discount points on the first and second mortgage, and as a result Mr. Beltran had to pay \$7,575 of his own closing costs.

In addition, it's unclear how much of a discount Mr. Beltran actually got for the 3.75 points on his first mortgage. At the time of his loan the average rate for a fixed 30 year mortgage according to Freddie Mac was 6.18 percent. Mr. Beltran received an adjustable rate loan with a prepayment penalty that started at 5.5 percent but could go as high as 10.5 percent and had an APR of 6.88 percent.

It does not appear that Countrywide KB informed Mr. Beltran of how much the discount points would be until very late in the process. Although the discount points are disclosed on the Good Faith Estimate which is dated two weeks before the closing, a document titled "Closing Cost Estimate" and dated three months before closing shows the closing costs and prepaids totaling less than \$5,000—all fees were included on the 'Closing Cost Estimate' except the discount points which are not disclosed at all on this form.

The Stick

Builders have not been content to just use incentives to steer buyers to the affiliated mortgage company. Builders have resorted to what can only be termed "scare tactics"—frightening buyers with financial harm for using an outside lender.

These scare tactics are evident in the purchase agreements used in California by several of the country's largest builders and severely restrict consumer choice.

D.R. Horton

Buyer *must* apply for financing through D.R. Horton's affiliated mortgage lender, DHI Mortgage within five days after entering into a purchase agreement. The buyer may apply to another lender in addition to, but not instead of, DHI Mortgage.

The buyer is considered in default of the purchase contract if the buyer uses an outside lender and is not able to close by the closing date. In that circumstance, D.R. Horton has the right to cancel the purchase agreement and keep the buyer's deposit, which is often \$5,000 or more. D.R. Horton may, in its sole discretion, choose to extend the closing date and charge the buyer \$300 per day until closing.

KB Home

The "Financing Agreement" that is part of the KB Home purchase agreement states that KB will not accept any government finance programs such as FHA, Veterans Administration or state programs from an outside lender.

The "Financing Agreement" imposes several penalties on buyers if they use an outside lender and the outside lender doesn't meet KB's timeline for closing. There is a \$500 late charge if the loan documents are not at the title company 14 days before closing and there is a penalty of \$300

per day if the deal does not close by the seller's estimated closing date.

Lennar

Buyer must apply for financing with Lennar's affiliated mortgage lender, Universal American Mortgage Corporation, within five days of entering into a purchase agreement. The buyer may apply to another lender in addition to, but not instead of, Universal American.

If the buyer decides to finance the purchase through an outside lender and does not close by the closing date, Lennar may cancel the purchase contract and keep the buyer's deposit.

Appraisals

KB's subsidiary, Countrywide KB Home Loans, has been the defendant in a number of lawsuits, including claims that it schemed with real estate appraisers by falsifying sales data and manipulated appraisals to inflate prices paid for homes as the housing market began to tank.¹⁷ Another Countrywide KB lawsuit includes claims by a former regional vice president and manager of 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.¹⁸

A Closer Look: Riverside and San Bernardino Counties

THE POPULATION OF RIVERSIDE COUNTY grew by almost 500,000 people from 2000 to 2006, according to the U.S. Census Bureau. This was the largest population growth among counties in California and the third-highest in the country.¹⁹ San Bernardino County had the sixth-largest increase in the United States, with almost 300,000 new residents.²⁰

Home prices soared. The median sale price in Riverside County more than doubled from \$195,000 in February 2002 to \$435,000 by December 2006. The median price in San Bernardino County had an even greater increase during this time from \$150,000 to \$375,000.

Those median prices have since crumbled, falling back down to 2002 levels—\$190,000 in Riverside County and \$152,000 in San Bernardino.²¹

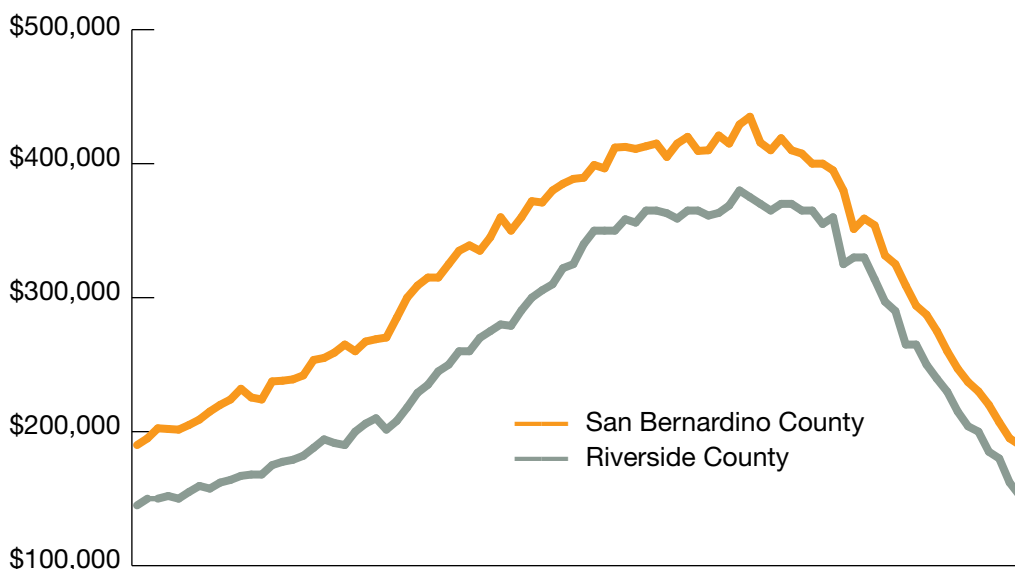
As housing prices rose almost weekly, builders rushed to sell as many homes at as high a price as possible. From 2000 to 2006, there were more than 170,000 new housing units built in Riverside County, more than any other county in California and the fourth-highest number in the country.²²

Adjustable Rate Mortgages

In order to sell their homes at peak prices, builders used mortgage products that would allow buyers to qualify for larger loans. The most common product used by the builders was the Adjustable Rate Mortgage (ARM).

An examination of mortgage data from the Riverside and San Bernardino County Recorders Offices reveal that between one-third and two-thirds of the purchase mortgages made by D.R.

Median Home Prices, Jan. 2002–Feb. 2009



Horton, Pulte, KB Homes, and Lennar in 2006 were Adjustable Rate Mortgages (ARMs), and that more than half of the ARMs were 5 year ARMs that will reset in 2011.

before rates reset. As with two-year and three-year option ARMs, the interest rate of a five-year ARMs can typically increase to a maximum rate of six percentage points higher than the starting rate.

Just as with two- and three-year and option ARMs, lenders made five-year ARMs based on the assumption that homeowners would refinance

Tragedy has not been averted, but merely postponed for many homeowners who are not dealing with resetting ARMs this year.

Riverside County 2006

Lender/ Builder	Percentage of Loans that are Adjustable Rate Mortgages	Percentage of ARMS that will reset after 5 years
DHI Mortgage/D.R. Horton	60%	60%
KB/Countrywide KB	75%	51%
Universal American/Lennar	39%	56%
Pulte	52%	62%

San Bernardino County 2006

Lender/ Builder	Percentage of Loans that are Adjustable Rate Mortgages	Percentage of ARMS that will reset after 5 years
DHI Mortgage/D.R. Horton	73%	60%
KB/Countrywide KB	77%	54%
Universal American/Lennar	39%	56%
Pulte	37%	71%

Subprime Loans

The exponential increase in homebuilders' origination of subprime and exotic loans enabled builders to continue to sell homes even after markets were overbuilt. In 2006 in Riverside and San Bernardino counties, subprime loans made up a much greater percentage of the total loans originated by builders than in 2005 and 2004.²³

In Riverside and San Bernardino counties, from 2004 to 2006 large homebuilders issued a much greater percentage of subprime loans they issued than prime loans. For instance, the number of subprime mortgages originated by Lennar in 2006 was almost 60 times more than in 2004 while their prime mortgage originations increased less than three-fold.

RIVERSIDE AND SAN BERNARDINO COUNTIES

Percentage of Purchase Mortgages that are Subprime (First and Second Liens)

Lender/Builder	2004	2005	2006
DHI Mortgage/D.R. Horton	5.5%	23.7%	35.8%
KB Home/Countrywide KB	17.2%	21.6%	21.1%
Universal American/Lennar	2.0%	14.4%	31.3%
Pulte	2.9%	7.7%	12.7%

RIVERSIDE AND SAN BERNARDINO COUNTIES

Home Purchase Mortgages (First and Second Liens)

Lender/ Builder	Prime Loans			Subprime Loans		
	2004	2006	% Change	2004	2006	% Change
DHI Mortgage (D.R. Horton)	866	1,851	114%	50	1,033	1,966%
KB/Countrywide KB	579	1,108	91%	120	297	148%
Pulte	234	1,225	424%	7	178	2,443%
Universal American (Lennar)	432	1,269	194%	9	578	6,322%

Piggyback Mortgages

Between one quarter and three quarters of the mortgages made by Lennar, KB, Pulte, and D.R. Horton in Riverside and San Bernardino counties in 2006 were accompanied by a second mortgage. These were almost always done as 80/20 loan combinations, in which the builder gave the homebuyer a first mortgage for 80 percent of

the home's value and a second mortgage for 20 percent of the value.

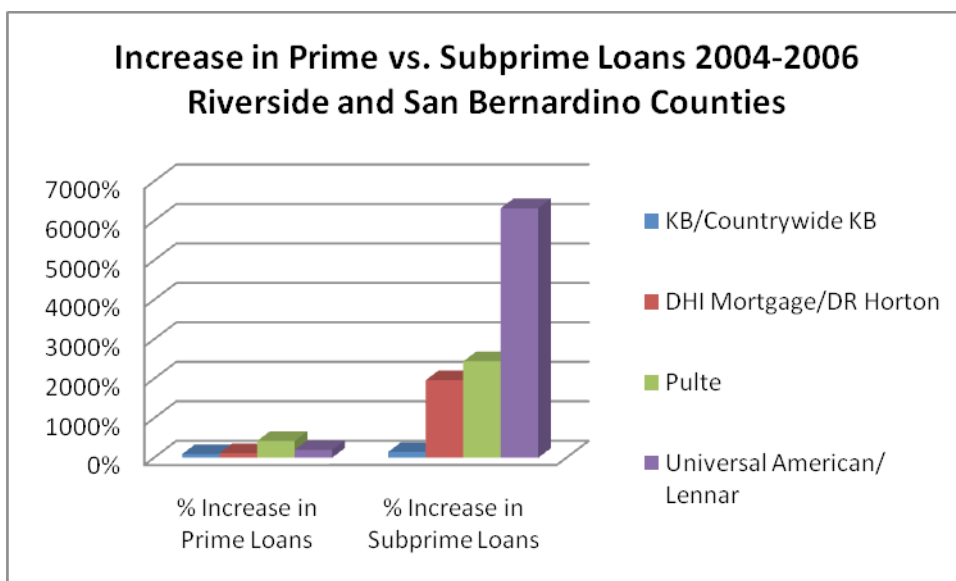
Even many homebuyers with prime first mortgages received second mortgages with subprime rates. Lenders often told them not to worry because they would be able to refinance in a few years and combine the first and second into one lower rate loan.

RIVERSIDE AND SAN BERNARDINO COUNTIES Percentage of Mortgages with a Piggyback 2006

Lennar (Universal American)	48%
Countrywide KB	25%
DHI Mortgage/D.R. Horton	75%
Pulte	27%

Percentage of Second Lien Purchase Mortgages that are Subprime 2006

DHI Mortgage/D.R. Horton	53%
Lennar (Universal American)	68%
Countrywide KB	48%
Pulte	55%



What Needs to Be Done

Restricting Mortgage Originations by Homebuilders

There is a fundamental conflict of interest in builders originating their own mortgages. Builders have an incentive to sell their inventory at the highest possible price, and their in-house mortgage units provide the financing to make it possible. There is evidence that during the housing boom in 2004-2006 builders were only able to sell homes at such inflated prices because of the collaboration with their mortgage subsidiaries and affiliated appraisal companies. These practices played a large part in creating the current housing crisis.

■ **The California Assembly should pass AB 1534 the Homebuyer Protection Act** to prohibit homebuilders from originating the mortgages that are used to purchase their homes.

■ The U.S. Department of Housing and Urban Development has proposed a change to the Real Estate Settlement Procedures Act (RESPA) that would make it a potential RESPA violation when a builder uses economic incentives or disincentives that have the effect of steering homebuyers to the builder's mortgage company. Although this is a step in the right direction, **HUD should completely repeal the 1983 amendments to RESPA that allowed builders and other businesses to make referrals to affiliated businesses.**

■ Countrywide was the single largest source of financing for homebuilders' mortgage operations. Countrywide had servicing, marketing, and secondary market relationships with the nation's largest homebuilders including KB Homes, Toll Brothers, NVR, Ryland Homes, Beazer Homes, and Lennar. **Bank of America, which acquired Countrywide, should discontinue the lending relationships that Countrywide had with builders' mortgage operations.**

Curbing the foreclosure crisis

■ **Congress should pass the Helping Families Save Their Home Act of 2009, HR 1106/S. 61.** This legislation would allow bankruptcy judges to modify harmful mortgages (such as by reducing the principal to the actual value of the home or changing an ARM to a fixed rate) and would help more than 600,000 families stay in their homes.

■ **Rather than merely paying lip service to preventing foreclosures, as Countrywide did, Bank of America must start actually doing it.** Although Countrywide made numerous public statements about its willingness to work with delinquent borrowers and its reluctance to foreclose, this does not match the experience of many of its customers. In too many cases Countrywide has refused to do loan modifications, such as converting adjustable rates to a fixed rate or reducing the principal, and instead pursued foreclosure even when it resulted in a greater loss to the company.

The Alliance for Homebuyer Justice and LIUNA

THE LABORERS' International Union of North America (LIUNA) has over 500,000 members, most of whom are construction workers. Our members do the hard, dangerous, and often dirty work of building our communities. Now they are facing a "triple threat" due to the current downturn in the residential market. Our members have lost jobs. They have lost their homes, and they have seen a portion of their retirement security evaporate over the past two years.

LIUNA recently became a founding member of the Alliance for Homebuyer Justice, which is made up of labor, community, and religious organizations working together against deceptive and abusive practices in the homebuilding and mortgage industry.

Homebuilders are supposed to be in the business of making dreams a reality—developing the neighborhoods of the future and laying the foundation for families and communities to grow. However, through our work, we have found that homebuilders are too often homewreckers, creating problems that tear families apart and devastate neighborhoods.

Their greed has led builders to skimp on labor and material costs, resulting in construction defects and a workforce that is barely able to make a living. In their quest for ever larger profits, homebuilders rapidly increased their prices for these poorly built houses, and then resorted to shady loan practices to sell them. In short,

experience shows that many large homebuilders don't care about their workers, their homebuyers, or their communities.

Our goals are that:

- 1.** Homebuilders should be held accountable for the damage they have caused. Builders must fix the problems caused by poor construction. They must take responsibility for the record number of families in subdivisions who are losing their homes or who have lost tens of thousands of dollars in home value and now owe substantially more than their homes are worth.
- 2.** Homebuyers should have access to affordable and sustainable mortgages from independent sources. This is a necessary component of a healthy construction industry.
- 3.** Residential construction workers should be paid a living wage, treated with respect, and have the right to join together for better lives.
- 4.** Residential construction workers should receive better training to ensure quality work, and builders must pay more than lip service to producing quality homes.
- 5.** Home sale prices should be targeted to what the community can afford, while still providing a fair profit, not rigged at a price brings the maximum profit to the builder.

Endnotes

¹U.S. Census Bureau

²The Home Mortgage Disclosure Act (HMDA) requires mortgage lenders to report information regarding their high cost, or subprime, loans. High cost loans are defined in the HMDA reporting guidelines as first mortgage with an Annual Percentage Rate (APR) at least three percentage points above the rate on comparable U.S. Treasury securities and second mortgages with APRs at least five percentage points above the Treasury rate. On average for 2006, this meant first mortgages with APRs above 7.9 percent and APRs above 9.5 percent. for second mortgages. For 2005 on average this was first mortgage APRs above 7.7 percent and second mortgage APRs above 9.3 percent.

³Home Mortgage Disclosure Act. See footnote 2.

⁴U.S. Census Bureau

⁵U.S. Census Bureau

⁶<http://www.poly.asu.edu/realty/studies.html>, "Appreciation Recedes from Record Level of 2006"

⁷Chris Isidore, CNN Money, "Builders' Lobbyist: We Made Too Many Homes: Chief of National Association of Homebuilders Says Overbuilding by Some Members Was One Factor in the Housing Meltdown," December 13, 2007.

⁸Ruth Simon and Michael Corkery, *Wall Street Journal* "Speculators May Have Accelerated Housing Downturn," February 6, 2008.

⁹Ruth Simon and Michael Corkery, *Wall Street Journal* "Speculators May Have Accelerated Housing Downturn," February 6, 2008.

¹⁰Inspector General Audit Report, 2005-LA-1011, September 26, 2005

¹¹BUILDER 100 2006 listing, *Builder*.

¹²HUD's Neighborhood Watch Early Warning System was designed to identify potential problems and so it monitors the originating lender. The system tracks early defaults—loans which became at least 90 days delinquent during their first two years. HUD makes the information publicly available through its website, www.hud.gov.

¹³D.R. Horton, Fourth Quarter Earnings Call, November 14, 2006

¹⁴KB Home 2007 10-K, February 13, 2007. KB's lower capture rate than the other builders may be due to their mortgage operation being a joint venture with Countrywide and not a wholly owned subsidiary of the company.

¹⁵Lennar 2007 Annual Report

¹⁶Pulte 2007 10-K, February 25, 2008

¹⁷Associated Press, "KB Home, Countrywide sued for inflating prices," Feb. 7, 2008.

¹⁸Associated Press, "Fired Worker Sues KB Home, Countrywide: Ex-Worker at Countrywide-KB Home Lending Unit Sues Over Firing," January 30, 2008.

¹⁹*North County Times*, "Riverside County population reaches 2 million," March 22, 2007.

²⁰*North County Times*, "Riverside County population reaches 2 million," March 22, 2007.

²¹California Association of Realtors, Historical City Median Home Prices.

²²U.S. Census Bureau.

²³The Home Mortgage Disclosure Act (HMDA) requires mortgage lenders to report information regarding their high cost, or subprime, loans. High cost loans are defined in the HMDA reporting guidelines as first mortgage with an Annual Percentage Rate (APR) at least three percentage points above the rate on comparable U.S. Treasury securities and second mortgages with APRs at least five percentage points above the Treasury rate. On average for 2006, this meant first mortgages with APRs above 7.9 percent and APRs above 9.5 percent. for second mortgages. For 2005 on average this was first mortgage APRs above 7.7 percent and second mortgage APRs above 9.3 percent.

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