



The Human Price of Building a Home

**Why Homeowners, Investors and the Public
Should Care About the Safety Record
of Building Materials Holding Corporation**

LiUNA!

Executive Summary

BUILDING MATERIALS HOLDING COMPANY (BMHC) is a Fortune 1000 company which operates through two divisions: SelectBuild and BMC West. SelectBuild is the largest residential construction contractor in the United States. The division builds major sections of houses, including the foundation and framing, for the biggest corporate home builders in the country, including Richmond American, Shea Homes, KB Home and Lennar. The second division, BMC West, primarily distributes or manufactures building materials and building components.

Statements from SelectBuild workers criticize a combination of production pressures and a dangerous working environment where the company does not generally provide workers with drinking water on the jobsite, shortcuts are taken on safety standards and the care of injured workers, and hazardous conditions are allowed to persist.

OSHA Inspection records show that SelectBuild and BMC West have a record of numerous safety violations and worker injuries, many relating repeatedly to the same issues at multiple locations. Since 2002, OSHA has conducted 99 inspections of SelectBuild operations and found 158 health and safety violations—59 of them regarded as serious—for which OSHA initially fined SelectBuild \$317,695. The fines were reduced to \$109,942 on appeal. Since 1998, 56 OSHA inspections of BMC West operations found 96 violations—54 of which were serious—resulting in \$73,916 in initial fines, which were reduced to \$42,899 on appeal.

The OSHA inspections include one that was triggered as a result of a fatality at a BMC West subsidiary where a worker died after falling from the tenth floor of an apartment complex. OSHA records show that he was not using a personal fall protection system.

From 2005 to 2007, BMHC has paid a minimum of \$15.8 million in workers' compensation costs. Data from workers' compensation claims speak volumes about BMHC's approach to worker safety. In only Arizona, workers' compensation records for 2007 show 455 accidents requiring claims, an average of almost nine injuries per week. These included 53 lost day cases, 185 cases requiring restricted work duty, 84 cases that required medical care but not missed days or light duty, and another 133 cases that required first aid at the worksite. In 2006, Arizona SelectBuild workers experienced 520 accidents requiring workers' compensation claims, an average of 10 injuries per week.

Among the citations characterized by OSHA as repeat violations is BMHC's recurring failure to meet training standards. OSHA inspections frequently reported little or no training programs for workers such as training to help prevent falls. Other inspections also showed that BMHC frequently did not



"It was a big wound and my co-worker cut off the sleeve of his shirt to wrap up my hand. The foreman didn't want to get close to me. My co-workers told [the foreman] to take me to the hospital, but he refused because he said my other hand was in good condition so I could drive myself. SelectBuild does not treat the construction worker like a human being, but like a disposable material."

PINO ROMERO HUERTA, SelectBuild employee in Las Vegas. He was cut by a steel blade protruding from a truss and required 19 stitches.

comply with simple and inexpensive safety requirements such as installing proper guards on equipment and machines. OSHA inspections of BMC and SelectBuild revealed multiple violations for exposing workers to fall hazards due to the lack of fall protection equipment and wall openings for windows which were not protected with required guardrails.

Numerous injured workers have reported trouble getting the medical attention they need. Injured workers are typically required to use company-approved occupational clinics like Concentra, instead of regular full service hospitals, that tout their ability to provide “cost containment” and “lost-time prevention,” instead of regular full- service hospitals.” Some workers also allege that SelectBuild has sought to minimize injury-related costs by discouraging workers from reporting injuries.

OSHA has identified numerous BMHC offices as having higher than average injury and illness rates. In 2007, OSHA sent 15 letters to various BMHC offices urging the company towards greater safety practices. And though BMHC has paid more than \$152,000 in fines, SelectBuild workers report continuing to face the same health and safety dangers.

For preventative measures, SelectBuild should have an effective apprenticeship and training program for workers that among other things, includes an emphasis on safety and health awareness and procedures. SelectBuild and BMHC should also seek out OSHA compliance consultation so supervisors and workers understand how to minimize and avoid dangers and risks on residential construction sites. Selectbuild should provide safety equipment for its employees rather than requiring workers to provide their own. SelectBuild should also provide proper training for workers and ensure all guard and safety equipment is fully utilized. Fall prevention should be an especially high concern for the company. SelectBuild should also stop its practice of requiring injured workers to only go to approved clinics. SelectBuild should also faithfully adhere to OSHA reporting and record-keeping guidelines.

Regardless of whether the homebuilding industry is booming or facing recession, it is always unacceptable to overlook worker safety.

Introduction

For anyone who owns a home built in recent years, there is a good chance a part of it was built by, or with materials from, the Building Materials Holding Company (BMHC). Operating through its primary division, SelectBuild provides framing, plumbing, concrete, and other construction services to high-production single-family homebuilders. Its second division, BMC West, distributes building materials and manufactures millwork, trusses, and other components. BMHC is a Fortune 1000 company with more than \$2.3 billion in revenue in 2007, down from a high of \$3.2 billion in 2006.

The SelectBuild division employed about 13,000 employees and earned \$1.1 billion in revenues in 2007.¹ Operating in 14 different major building markets, SelectBuild is concentrated in Arizona, California, and Las Vegas where it does more than 80% of its work and has a commanding market share in each city.² If you live in one of these areas, it's likely that the walls, foundation, plumbing systems or any number of parts of your house were completed by the company.³

What kind of company is SelectBuild?

During the height of the residential building boom, in the opinion of SelectBuild workers, keeping up with rapid growth and completing one house after the other was valued over everything else, including their safety. During this time, workers say they often labored 10- to 14-hour days, six to seven days a week. As the housing industry fell into deep recession, SelectBuild began laying off workers by the thousands. Yet workers still say the company drives them to work harder and faster, even with fewer employees to do the job.

In scores of interviews, workers said the unrelenting pressure to finish houses as fast as possible and as little time and money as possible resulted in dangerous shortcuts on safety standards and the care provided to injured workers. Many SelectBuild workers say that as wages have been slashed, the company requires them to pay for their own safety equipment and tools, even items which are customarily provided, such as saw blades. Moreover, many SelectBuild workers express the belief that the production pressures result in shortcuts that can impact not only safety but also building quality.

Construction workers in Arizona, Las Vegas and California also allege that SelectBuild does not pay proper overtime and does not provide sick pay, holiday pay or vacations. Few have affordable family insurance and a pension plan. These workers build homes very few of them could ever afford to live in. The vast majority of SelectBuild workers are Latino immigrants. They report having to frequently put up with verbal insults and disrespect from company management.

"I fell from a 15-foot wall and hit my head. The supervisor didn't want to call an ambulance. My co-worker brought me to a clinic. Everyone that has an injury from SelectBuild [goes to that one] but they couldn't attend to [my injury] so my [co-worker] brought me to Eisenhower Hospital. I was in the hospital for three days. The supervisor was mad at my co-worker for taking me to the hospital."

**SALVADOR GODINEZ,
who worked for
SelectBuild subsidiary
Tandem West**



“My crew and I went to help another team lift a wall. We lifted the wall with physical force without any support. The 20 foot high wall wasn’t secure and it fell on top of us. I had a compression on my vertebral spine and a disc was damaged. I stayed home for three months to recuperate and then I was sent to work on light duty. My back is bad and I feel the pain in my legs too. SelectBuild covered my medical expenses and paid me 70 percent of what they used to pay me to perform light duty. But when I informed SelectBuild that I was going to be damaged for life because of my restrictions, I was fired.”

**SAUL PARTIDA,
father of two, and
10-year SelectBuild
employee.**

Who is SelectBuild?

Even in the current residential construction downturn, the residential building industry is the largest sector of construction employment and accounts for over a third of all construction spending, albeit down from 56 percent in 2005.⁴ In this sector, the large-volume homebuilders generally act as developers, subcontracting out almost the entire actual building process to legions of firms that employ construction workers who do the actual physical work. Of these, SelectBuild is the largest contractor in the United States with more than ten thousand employees.⁵ The company works on more than 50,000 residential units per year.⁶ SelectBuild builds major sections of the houses, including the foundation and framing, for the biggest corporate home builders in the country, including Richmond American, Shea Homes, KB Home and Lennar.⁷

In 2007, SelectBuild had 13,000 workers in eight states. During the height of the housing boom, SelectBuild employed 19,000 workers.⁸ In the residential construction sector, where 99 percent of all firms employ 49 or fewer employees, SelectBuild is one of the key players setting industry standards, wages and working conditions.⁹

SelectBuild Should Prioritize Worker Safety

On a daily basis SelectBuild workers must deal with safety hazards, including:

- **Working in extreme temperature.** In Phoenix, temperature average over 90°F for five months of the year. In Las Vegas, temperature average over 90°F degrees for four months of the year.
- **Working at heights.** SelectBuild workers are often contracted for framing, which frequently requires work at heights installing pieces of frame or roofs. SelectBuild has been cited by OSHA on numerous occasions for failing to provide fall protection safety measures for workers.

Since 2002, OSHA has conducted 99 SelectBuild inspections and found 158 health and safety violations—59 rated serious—for which OSHA initially fined SelectBuild \$317,695. The fines were reduced to \$109,942 on appeal.

Since 1998, 56 OSHA inspections of BMC West operations uncovered 96 violations, 54 of them serious, which resulted in initial fines of \$73,916 and were reduced to \$42,899 on appeal.

The OSHA inspections include one that was triggered as a result of a fatality at a BMC West subsidiary where a worker died after falling from the tenth floor of an apartment complex without a personal fall protection system.

SelectBuild’s OSHA 300 logs show a large number of injuries across company locations.

SelectBuild Subsidiary	Year	Average Number of Workers	Number of Injuries	Cases with Days Away from Work	Total Days Away from Work	Cases with Job Transfer or Restriction	Total days of Job Transfer or Restriction
KBI Construction, Dixon CA ¹⁰	2004	1,200	158	30	1,464	118	3,926
SelectBuild Integrated Construction Dixon, CA ¹¹	2005	1,881	185	28	1,394	156	3,022
SelectBuild of Arizona/Riggs Plumbing, Mesa, AZ ¹²	2005	607	105	11	1,007	69	289
SelectBuild of Arizona/Riggs Plumbing, Mesa, AZ ¹³	2006	610	73	7	69	49	732
KBI Construction, Glendale AZ ¹⁴	2002	597	76	14	143		228
KBI Construction, Glendale AZ ¹⁵	2003	658	95	27	768	7	207
KBI Construction, Glendale AZ ¹⁶	2004	908	100	16	118		384
PHX Framing, Glendale, AZ ¹⁷	2006	783	127	22	605	77	3,993

While BMHC is protected from most personal injury lawsuits through the state workers’ compensation laws, the company has to pay medical bills and lost wages to injured workers as defined under the law. From 2005 to 2007, BMHC has paid out a minimum of \$15.8 million in workers’ compensation costs.¹⁸

Using available workers’ compensation data, at SelectBuild’s Arizona operations in 2007, there were 455 accidents requiring workers’ compensations claims, an average of almost nine injuries per week. Injuries included 53 lost day cases, 185 cases requiring restricted work duty, 84 cases that required medical care but not missed days or light duty, and another 133 cases that required first aid at the worksite.

In 2006 in Arizona, SelectBuild workers experienced 520 accidents requiring workers’ compensation claims, an average of 10 injuries per week. These included 69 lost day cases, 195 cases requiring restricted work duty, 141 cases that required medical care but not missed days or light duty, and another 115 cases that required first aid at the worksite.

Being struck by an object was the most common injury, accounting for almost 1 in 5 cases. Fall-related injuries were the second most common, accounting for almost 17 percent of injuries and were also the most costly, making up almost 40 percent of all workers’ compensation costs.

Most common injuries at SelectBuild in Arizona, 2005-2007:

Cause	Number of Cases	Workers' Compensation Costs	% Total Cases	% of Total Workers' Compensation Costs
Fall/Slip/Trip—Different Level	89	\$3,975,062.31	7.54%	25.09%
Fall/Slip/Trip—Same Level	108	\$2,250,143.15	9.14%	14.20%
Lifting/Carrying	164	\$1,624,104.93	13.89%	10.25%
Rubbed/Abraded/Struck By	226	\$1,513,831.84	19.14%	9.55%
Overexertion/Strain	79	\$879,539.53	6.69%	5.55%

According to former OSHA Chief Charles Jeffress, “If someone is hurt on the job [and] files for workers’ compensation, the insurance company or the company pays for the medical bills of that person, and the person is not out any money. But in terms of any incentive to the employer to avoid the future consequences or future incidents—workers’ comp does not provide any kind of penalty to provide an incentive toward these chances of a future accident.”¹⁹

BMHC’s safety record speaks for itself.

OSHA Inspection Record

	SelectBuild since 2002	BMC West since 1998
Number of inspections	99	56
Number of violations	158	96
Total amount of penalties issued	\$317,695	\$73,916
Total amount of current fines (after appeals)	\$109,942	\$42,899
Type of inspections:		
Accident	21	4
Complaint	4	9
Planned	50	33
Referral	7	2
Other	17	8
Number of inspections resulting in one or more violations	64	35
Number of violations issued for:		
Repeat Violations	5	2
Serious Violations	59	54
Other [non-serious] Violations	94	40
Cases in which there was:		
Informal Settlement	68	35
Formal Settlement	22	10
ALJ Decision	8	6
Government Dismissal	1	8
Number of violations deleted on appeal	31	17

OSHA Inspections Revealed a Lack of Training for Workers

One of SelectBuild's key repeated violations is for failing to meet training requirements. While SelectBuild has manuals and paperwork for a safety program, to LiUNA safety does not appear to be a priority:

- On August 15, 2007 at a Shea Homes development, SelectBuild Arizona was cited for a serious violation when an OSHA inspector observed an employee working on a structure at 20 feet without fall protection, another employee at 24 feet, and a third at 18 feet. In interviews with workers at the site, the inspector was told by one employee that he had no fall protection training or fall protection equipment issued to him. The worker reported that his framing foreman "stated that they never use fall protection and that he had never seen the fall protection program."²⁰
- On March 24, 2006 at a La Quinta, California, jobsite an employee of TWF Construction (dba SelectBuild) sustained a serious injury while operating a portable power driven circular hand saw. While using the saw, it "jumped" and cut his left thumb through the bone, requiring a two-and-a-half-day hospital stay. When asked by an OSHA inspector if he had received training, the injured worker said, "They told us what to do, not how to do it."²¹
- On June 21, 2005, a carpenter for SelectBuild subsidiary KBI Construction was securing decking on the second story of a house in a KB Home development when he "stepped off the edge of the deck, falling to the poured concrete garage floor below." Javier Rodriguez fell more than 11 feet and "struck his head on the base plate of the wood framing, rendering him unconscious and resulting in a fractured skull." An OSHA inspector that day cited KBI Construction for not providing a training program for employees exposed to fall hazards. Six interviews were conducted with workers. Two said they had received no training in fall protection and four had received inadequate training.²²
- In an OSHA inspection of a Shea Homes development on August 15, 2007, SelectBuild Arizona received an "inadequate" rating for its written health and safety program, for communication to employees, for its safety training program, and for its training records.²³
- In an inspection at a KB Home development in Maricopa, Arizona, on June 21, 2005, SelectBuild subsidiary KBI was given an "inadequate" rating for its safety training program, accident investigation program, preventive action, and communication to employees. Training records were nonexistent.²⁴
- In an OSHA inspection of SelectBuild subsidiary Arizona/Riggs Plumbing on September 10, 2007, SelectBuild was given an "inadequate" rating for written safety and health program, communication to employees, safety training program, and training records.²⁵

"We'll work 10 hours in a day in 115-degree heat and we'll all be miserable because it's like being in an oven—but the company still doesn't give us water. I have to bring my own."

LUIS BERNAL,
employee of SelectBuild
(and Davis Brothers,
which was purchased by
SelectBuild) since 1992



"A wood beam fell on my back between my back bone and my left buttock. I remember feeling the impact on my back and losing consciousness. SelectBuild did not call the ambulance or offer me immediate medical assistance. My supervisor had me work on light duty jobs and told me he did not have the C-1 (Notice of Injury or Occupational disease) form to fill out to report my accident. Two weeks went by and I told my supervisor the pain was unbearable and I wanted to notify SelectBuild. He threatened me, and said if I reported my injury to SelectBuild not to bother to come back to work for him. I decided to go the hospital on my own. I obtained X-rays and went to SelectBuild's Human Resources Department to show them my exams.

continued on next page

BMHC Has Been Fined and Cited for Failing to Provide Basic and Inexpensive Safety Protection at Numerous Inspections

- On August 17, 2005, an employee of SelectBuild distribution in Marysville, California suffered an injury to his foot that resulted in the amputation of his large toe and the partial amputation of two other toes. A hydraulic lift table used to stack plywood malfunctioned and fell on the worker's foot. SelectBuild paid a \$14,400 fine because there were not proper guards between the table and the standing platform to prevent feet from being trapped in the way this worker's foot was trapped.²⁶
- An OSHA inspection of BMHC in Sherwood, Oregon found that the side of a radial saw was not properly guarded.²⁷
- An OSHA inspection of BMC West at a D.R. Horton project in Vancouver, Washington found that employees were working with pneumatic nail guns without proper eye and face protection.²⁸
- An OSHA inspection of BMC West in Seattle found that an employee using a pneumatic nail gun did not have proper eye protection. The OSHA inspector found that there were no safety glasses onsite.²⁹
- An OSHA inspection of BMC West in Tacoma, Washington found that a radial saw did not have proper guarding to protect operators and other employees in the machine area.³⁰
- An OSHA inspection of BMC West in Salem, Oregon found that a circular rip saw was operating without a hood guard and several other features required to protect workers.³¹

Short-cuts such as the lack of guards around equipment or on floors and windows may save a company money in production costs and time resources. But BMHC workers say that short-cuts such as these can take their toll on workers and the quality of work they are able to perform, and can be directly responsible for injuries.

Fall-Related Injuries are a Particular Problem at SelectBuild

According to the most recent Bureau of Labor Statistics Census of Fatal Occupational Injuries, the construction sector had the highest number of fatal injuries in 2006. Construction workers were 2.7 times more likely to die at work than workers as a whole. Falls are the leading cause of death, accounting for more than a third of all construction fatalities.

At SelectBuild's Arizona operations in 2007, 56 percent of the total cost of workers' compensation claims were from fall injuries. There were 66 fall injuries, which cost SelectBuild \$662,551 in workers' compensation costs. Since January 2005, a minimum of 197 fall injuries have occurred at SelectBuild. These include 75 falls that resulted in workers missing work and 70 falls that resulted in workers needing to be assigned to restricted or light duty.³²

- On December 6, 2004, in Fontana, California a framing worker for SelectBuild subsidiary KBI was laying a plate on a second floor 10-feet 11-inches above ground when he fell to the ground sustaining injuries to his right knee and left foot. He required surgery on his knee and was hospitalized for two weeks, during which he needed a second knee surgery.³³ Just two months later, an OSHA inspection at a different KBI worksite in Fontana found two safety violations in which workers were exposed to fall hazards. Two employees were seen working at 17 feet and 22 feet without fall protection. In addition, wall openings for windows on the second floor were not protected with required guardrails. Even after appeal, KBI was fined \$3,000.³⁴
- On October 27, 2007, WBC Construction, SelectBuild's subsidiary in Florida, was cited by OSHA when an inspector saw employees working on decking at a height of 12 feet, employees working on a second-floor balcony at a height of 10 feet, and employees working near open-sided floors at a height of 10 feet. All were without fall protection.³⁵
- On August 31, 2004, Jose Villapondo was hanging fascia on an eight-foot wall in a house at the Ryland Homes Sierra Montana development. He lost his balance and fell, landing on the back of his neck in a trench.³⁶
- On August 12, 2004, Pedro Ayala fell eight feet while working on a tower at the entryway to the house he was building. It was his first day on the job for KBI/SelectBuild.³⁷
- On August 4, 2004, OSHA inspected a Pulte Home development manned by SelectBuild subsidiary KBI Construction/Knipp Brothers Inc. of Tucson. The inspection came after a previous accident. Three employees were installing trusses off the top plate of a one story home. "All three ground braces snapped causing the trusses to collapse. One of the exterior braces snapped where there was a knot in the wood. The interior ground brace snapped into three pieces...The employee securing the center of the braces fell approximately 10 feet." OSHA cited KBI Construction for failing to provide fall protection and for failing to establish a training program for employees exposed to fall hazards.³⁸

"They realized the injury was serious and sent me to their clinic, Concentra. I finally received medical attention. Then the doctor gave me a release order stating that I was able to perform light duty jobs with my body's restrictions. When I returned to work, I spent a half-day and I was fired unjustifiably with no compensation. I told SelectBuild I did not want to receive money and that I just wanted them to cover my medical expenses to continue my rehabilitation treatment. SelectBuild's excuse was that I did not report my accident on time, even though I had been complaining to my supervisor who continuously ignored me. I would like SelectBuild to leave me how I used to be, rehabilitated because I have to work and take care of my family."

**BERNABE CRUZ
31, worked for SelectBuild
for nine months.**



"I built a wall and I asked three colleagues to come and help me lift it. There is always pressure to complete work rapidly. When I turned and bent to grab my tool, the wall fell and hit my head. I fell to the ground and the wall hit my back. I started yelling for help. Luckily security was near, he carried me and took me to [SelectBuild approved] Concentra. But when the doctor from Concentra noticed my injury was very serious he refused to assist me and called the ambulance. The X-Rays revealed internal damage. I was hospitalized for a day and a half. I still can't walk, sit for long periods of time or bend."

LUCIO HERNÁNDEZ URIBE, who came to the U.S. almost 20 years ago and began working for SelectBuild, then known as KBI, in 2001.

Fall Protection Violations are also Very Common at BMC West

- Framing workers at a BMC jobsite in Newberg, Oregon were exposed to a 12 ½-foot fall because window openings were not properly guarded.³⁹
- A framing worker on the roof of a house at a BMC West jobsite in Redmond, Washington was exposed to a 12-foot fall hazard without proper protection.⁴⁰
- A worker at a BMC West jobsite in Rexburg, Idaho was exposed to an 18-foot fall hazard while working on the third floor of an apartment complex in which the edges of the floor did not have proper guards installed.⁴¹
- Five workers at a BMC West jobsite in Vancouver, Washington were exposed to 10- to 12-foot fall hazards because no protection system was installed on open sides around the perimeter of the building.⁴²
- Workers at a BMC West jobsite in Seattle were exposed to a 9-foot fall because there was no standard guardrail on an exposed second floor.⁴³
- Workers at a BMC West jobsite in Kent, Washington were exposed to fall hazards because open-sided floors did not have guardrails, stairways did not have rail systems, and window openings did not have guardrails.⁴⁴
- Workers at a BMC West jobsite in Auburn, Washington were exposed to a 10-foot fall hazard because guardrails were not installed on the open second floor.⁴⁵

The Price of Building America's Homes Must Not be Death or Injury on the Job

In March 2007, BMHC received 15 letters to its various offices from OSHA, along with other companies that OSHA had identified as having high Days Away from work, Restricted, or Transferred rates, also known as "DART" rates. The letter stated, "Your establishment was one of those identified as having a DART rate higher than most other businesses in this country" and urged employers to take action to remove hazards causing the high rates.⁴⁶

It is unclear what, if any, affect these letters had on BMHC. And while BMHC has cumulatively paid more than \$152,000 in fines to OSHA that equals less than 0.001 percent of its annual revenue. The number of violations—more than 250 logged to SelectBuild and BMC West since 1998, 113 of them serious—is cause for concern, and SelectBuild workers say that they continue to face the same persistent and pervasive health and safety dangers.

Recommendations

LIUNA's half-million members are on the forefront of the construction industry, a powerhouse of 10 million workers who build our country, including its homes. Through its collective bargaining agreements, its training and safety research resources and by cooperating with employers, LIUNA is leading the effort to eliminate as much as possible the dangers construction workers face.

LIUNA has several recommendations to make BMHC a safer company:

1. First and foremost, SelectBuild should have an effective apprenticeship and training program for workers that among other things, includes an emphasis on safety and health awareness and procedures.
2. SelectBuild and BMHC should seek out OSHA compliance consultation so supervisors and workers understand how to minimize and avoid dangers and risks on residential construction sites.
3. SelectBuild workers should be empowered to say "No" to clearly unsafe work without fear of losing their jobs or other retaliation.
4. All SelectBuild workers should be provided with proper safety equipment and be required to use it.⁴⁷
5. OSHA should create a reliable system for tracking companies that operate in many locations and under multiple names. "OSHA has no simple way to connect the multiple safety failure happening across a company's widegroup of subsidiaries operating under different names," according to Jeffress. Agency officials also say that OSHA inspectors have no authority to undertake a comprehensive investigation of a corporation with similar violations in several states. As a result, patterns of misconduct often go undetected.⁴⁸ A company can repeatedly violate safety regulations at multiple locations without being cited for repeat violations. For example, this report cites 12 inspections in which BMHC subsidiaries were cited for violations of fall protection standards. Only one of the inspections found evidence of prior violations. OSHA may not have been aware of the possibility that it could seek the stronger penalty of repeat violations.
6. When assessing a company's history and issuing violations, OSHA should look at the citation history for entire categories of violations, not just a specific standard. Currently OSHA issues citations for violations of specific standards that fall under broader categories. For instance, under Fall Protection for Construction, there are 22 different standards (under federal OSHA regulations) employers must follow, in addition to numerous standards relating to guard rails, personal fall arrest systems, scaffolds, and other measures designed to protect against falls.⁴⁹ In practice, this means that an employer can violate one of the 22 fall protection standards at one worksite and at the worksite across the street violate a different fall protection standard, but not be issued a violation for a repeat violation.

"During all of the five years that I worked high up, they only used the safety equipment when there had been an accident recently or they knew that OSHA was going to come do an inspection. The company didn't like us to use it because we worked faster without the personal protective equipment."

JUAN NUNEZ

“They don’t make us use the safety equipment because the equipment is heavy and it makes the work go slower. The only thing they care about is that we produce quickly. They’re not interested in safety.”

**IGNACIO NUNEZ,
SelectBuild employee
since 2002.**

It makes no difference to an injured worker whether he fell because there were no guardrails on the open side of a second floor, or he fell because there were no guardrails on window openings.

7. Companies should have to report all accidents to OSHA on a monthly basis. After OSHA establishes a baseline, the employers with accident rates above average for their industry should be inspected regularly until their accident rate declines. In addition, OSHA should regularly audit employers to see if they are underreporting accidents.
8. Fines should more accurately reflect the seriousness of the violation and the company’s previous inspection and accident record. With only an average fine of \$757 for BMHC per serious violation, LiUNA believes that OSHA fines are not a deterrent and that a company might prefer to pay the small fines than bring their jobsites into compliance. Currently, simply filing an appeal almost guarantees that fines will be reduced. Adjustment of citations and penalties should reflect actual steps taken by the employer to make the workplace safer. Rather than rushing employers through a settlement in which the company admits to no wrongdoing but agrees to pay a reduced fine, employers should have to show evidence of why an appeal is merited and show improvements in workplace safety.

Conclusion

With available workers’ compensation data for just Arizona showing an average of 9-10 accidents per week at SelectBuild over for the last two years, it appears that SelectBuild and BMHC does not place a high enough priority on the direct and indirect costs—including the human cost—of poor workplace safety practices.

According to OSHA, a smart safety program pays for itself. The cost of an accident, including the cost of training new workers to take the place of injured ones, damage to equipment, and administrative costs is as much as 10 times the actual cost of the injury.⁵⁰

BMHC is at a very crucial moment in time. Faced with economic distress from the residential construction downturn and numerous restrictions from its debt service issues, now is not the time to squeeze profits for the company on the backs of workers or to cut corners on workplace safety. Rather, BMHC should commit to using this time of lessened building activity to make workplace safety a real priority.

Regardless of whether the homebuilding industry is booming or facing its current problems, it is always unacceptable to ignore worker safety. Workers want to do their jobs in safe conditions and employers should do their part. Better working conditions will surely result in better built houses.

Endnotes

¹Building Materials Holding Corporation, 2007 Annual Report and 10-K, March 11, 2008.

²Based on information from various quarterly analyst calls including 2005 Q3 Analyst Call, October 25, 2005.

³2007 annual report.

⁴Census, Construction Spending, May 2008, <http://www.census.gov/const/www/c30index.html>

⁵Building Materials Holding Corporation, 2007 Annual Report and 10-K, March 11, 2008.

⁶“BMHC Launches SelectBuild Construction, Inc. as Successor to BMC Construction; Company Creates New Service Segment for Residential Construction Industry Addresses Unique Needs of High-Volume Production Homebuilders,” PR Newswire, June 21, 2006. This press release says that SelectBuild works on more than 70,000 residential units per year.

⁷Customers listed for each region at <http://www.selectbuild.com> as well as in various investor documents and presentations.

⁸Employment figures from BMHC Annual Report and 10-K for 2005, 2006, and 2007.

⁹Census, County Business Patterns, <http://censtats.census.gov/cgi-bin/cbpnaic/cbpdetl.pl>, Number of Establishments by Employment-size class for 2006 for 23611: Residential Building Construction.

¹⁰OSHA Inspection #300742640, March 28, 2005.

¹¹OSHA Inspection #309369601, June 29, 2006.

¹²OSHA Inspection # 311498695, September 10, 2007.

¹³OSHA Inspection # 311498695, September 10, 2007.

¹⁴OSHA Inspection #309154854, June 21, 2005.

¹⁵OSHA Inspection #309154854, June 21, 2005.

¹⁶OSHA Inspection #309154854, June 21, 2005.

¹⁷OSHA Inspection #311354690, August 15, 2007.

¹⁸This figure only includes cases from Arizona in 2006 and 2007 (through November), and cases from 2005 and 2006 throughout the country that were still open at the end of 2007.

¹⁹<http://www.pbs.org/wgbh/pages/frontline/shows/workplace/osha/jeffress.html>

²⁰OSHA Inspection #311354690, August 15, 2007.

²¹OSHA Inspection # 126158674, June 22, 2006.

²²OSHA Inspection #309154854, June 21, 2005.

²³OSHA Inspection #311354690, August 15, 2007.

²⁴OSHA Inspection #309154854, June 21, 2005.

²⁵OSHA Inspection # 311498695, September 10, 2007.

²⁶OSHA Inspection # 309365179, January 9, 2006.

²⁷OSHA Inspection #307467332, May 27, 2004.

²⁸OSHA Inspection #305924383, December 12, 2002.

²⁹OSHA Inspection #305901589, August 22, 2002.

³⁰OSHA Inspection #304096001, February 8, 2001.

³¹OSHA Inspection #302676838, March 19, 1999.

³²This figure only includes cases from Arizona in 2006 and 2007 (through November), and cases from 2005 and 2006 throughout the country that were still open at the end of 2007.

³³OSHA Inspection # 125884189, January 21, 2005.

³⁴OSHA Inspection #125883728, February 10, 2005.

³⁵OSHA Inspection #306753690, October 27, 2004.

³⁶OSHA Inspection #309154854, June 21, 2005.

³⁷OSHA Inspection #309154854, June 21, 2005.

³⁸OSHA Inspection #308031251, August 4, 2004.

³⁹OSHA Inspection #309608370, May 8, 2006.

⁴⁰OSHA Inspection #306344425, April 28, 2003.

⁴¹OSHA Inspection #305514861, December 10, 2002.

⁴²OSHA Inspection #305924383, December 12, 2002.

⁴³OSHA Inspection #305901589, August 22, 2002.

⁴⁴OSHA Inspection #305635377, June 14, 2002.

⁴⁵OSHA Inspection #304671340, July 23, 2001.

⁴⁶http://www.osha.gov/as/opa/foia/hot_13.html

⁴⁷OSHA Inspection #125880864, December 9, 2005. An employee of HNR Framing of Poway, CA said in an interview with the OSHA inspector that he supplies his own equipment, nail gun (along with extension cords and generator), hard hat, and safety glasses.

⁴⁸<http://www.nytimes.com/2003/01/10/national/10PIPE.html?ex=1216353600&en=0086b220a1fb8310&ei=5070>

⁴⁹US Department of Labor, Occupational Safety and Health Administration, Regulations (Standards-29 CFR), http://osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=0&p_keyvalue=

⁵⁰<http://www.pbs.org/wgbh/pages/frontline/shows/workplace/osha/jeffress.html>

LiUNA!

905 16th Street NW | Washington, D.C. 20006 | 202-737-8320 | www.liuna.org