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## Mortgage Brokers Ask HUD To Investigate Builder "Incentives" To Homebuyers.

*by Kenneth R. Harney*

Home builders who require buyers to use their affiliated mortgage companies in exchange for thousands of dollars worth of "incentives" -- upgrades, extra square footage, and deeply-discounted closing costs -- may be violating federal law and misleading consumers.

That's the contention of the National Association of Mortgage Brokers (NAMB), the largest professional group representing the country's 50,000-plus mortgage brokers. In a recent meeting with top HUD officials, including federal housing commissioner John C. Weicher, a delegation of mortgage brokers presented what they called "hard evidence" that builder financing incentives frequently violate both the Real Estate Settlement Procedures Act (RESPA) and federal antitrust statutes. Worse yet, said NAMB, the incentives themselves often encourage or force new home buyers into much costlier mortgage deals than they could obtain on the free market -- thereby negating any real savings on the house or closing costs.

Marc Savitt, a West Virginia broker and director of NAMB's government affairs committee, led the delegation and gave HUD officials a thick file of alleged abuses by builders -- some of them well known national firms -- in multiple states. Savitt said he visited five new home subdivisions on a recent trip to Florida, posing as an ordinary home purchaser. In all five subdivisions, according to Savitt, he found violations of RESPA rules.

For example, in one builder's marketing office near Jacksonville, the sales manager handed Savitt a printed warning that the builder "will not execute a purchase agreement" to sell a home unless buyers agree in advance to use one of the builder's short list of "approved" lenders. The number one lender -- listed in capital letters as the "preferred choice" -- was the builder's wholly owned mortgage subsidiary, though no disclosure was made of that relationship.

In another subdivision, according to Savitt, a salesman threatened to withhold a \$5,000 discount on settlement costs -- and refused to sell the house altogether -- if Savitt failed to obtain his mortgage through an affiliated lender. Still other builders salesmen told Savitt they would have to jack up the price of the home if Savitt did not use recommended mortgage and settlement service providers.

"What they are doing here is discouraging buyers from shopping in the open market," said Savitt. "They're trying to steer people to the lenders they've got deals with, and they try to make your head spin with incentives."

Sometimes the incentives themselves are fictional, Savitt told HUD. For instance, if a \$10,000 "upgrade" is really nothing more than a bookkeeping subterfuge -- manipulation of pricing on certain features in the total price of any given home -- then "where's the true saving to the consumer?" asked Savitt.

The broker delegation presented examples allegedly documenting builder pressure tactics to force their customers to sign up for inferior in-house mortgage packages. In virtually every case, according to Savitt, the builder's "preferred" financing came with interest rates ½ a percent or higher, plus higher points and other lender fees, than competing mortgage companies and brokers in the area offered at the same time.

HUD had no comment on the allegations, but confirmed that it is investigating builder incentives and potential violations of RESPA in a number of states around the country. HUD's rules generally permit builders to offer financial inducements to purchasers for voluntarily -- never required -- use of affiliated lenders, title and settlement service providers. HUD prohibits offers of price discounts that are not real -- such as those paid for by adding to the cost of the goods or services elsewhere in the transaction.

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