

FILED

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

2008 DEC 22 PM 4:50

COURT REPORTER  
ALEXANDRIA, VIRGINIA

NATIONAL ASSOCIATION OF HOME )  
BUILDERS, NVR, INC., NVR MORTGAGE )  
FINANCE, INC., FIRST HERITAGE )  
MORTGAGE, LLC, INTERCOASTAL )  
MORTGAGE CO., AMS PARTNERS, L.P., )  
BUILT AROUND YOUR MORTGAGE )  
FUNDING, LP, CENTEX HOMES, CTX )  
MORTGAGE COMPANY, LLC, D.R. )  
HORTON, INC., DHI MORTGAGE )  
COMPANY, LTD., DHI TITLE OF TEXAS, )  
LTD., THE DREES COMPANY, FC )  
LENDING, LTD., FIRST EQUITY )  
MORTGAGE, INC., FIRST CONTINENTAL )  
MORTGAGE, LTD., HOVNANIAN )  
ENTERPRISES, INC., K. HOVNANIAN )  
AMERICAN MORTGAGE LLC, EASTERN )  
TITLE AGENCY, INC., KB HOME, )  
MERITAGE HOMES CORPORATION, MTH )  
MORTGAGE, LLC, M.D.C. HOLDINGS, INC., )  
M/I HOMES, INC., M/I FINANCIAL CORP., )  
PRESTIGE LENDING SERVICES, LTD., )  
PRIORITY HOME MORTGAGE, LTD., )  
PULTE HOMES, INC., PULTE MORTGAGE, )  
LLC, RYLAND MORTGAGE COMPANY, )  
SHEA HOMES LP, TAYLOR MORRISON, )  
INC., VIRDEN MORTGAGE SERVICES, LP, )  
WEEKLEY HOMES, LP, WEST OAKS, )  
FINANCIAL, LTD., )

Civil Action No. 1-08 CV 1324

CMH / TCB

#1 BUILDER BY

VOLUME.

Plaintiffs,

v.

STEVE PRESTON, Secretary, United States  
Department of Housing and Urban Development,  
and UNITED STATES DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT,

Defendants.

the buyer's use of various non-affiliated lenders would drive up administrative costs to the homebuilder, which would in turn drive up costs for consumers.

If the definition is revised according to the proposal, homebuilders would not realize the same efficiencies in utilizing non-affiliated lenders, most likely resulting in a loss of incentives being offered to consumers.

HUD's proposal would eliminate consumer choice. HUD has not demonstrated the need to remove from the consumer the ability to make a voluntary choice between an incentive arrangement available under the existing rule that is based on the use of builder-affiliated settlement service providers and using non-affiliated providers. Also, HUD appears to believe that a consumer's choice of a settlement service provider is based solely on cost. From our experience, this clearly is not the case. Various factors are weighed by consumers, including price, convenience, service and reputation. With all due respect, the consumer is in the best position to determine what is best for the consumer—not HUD.

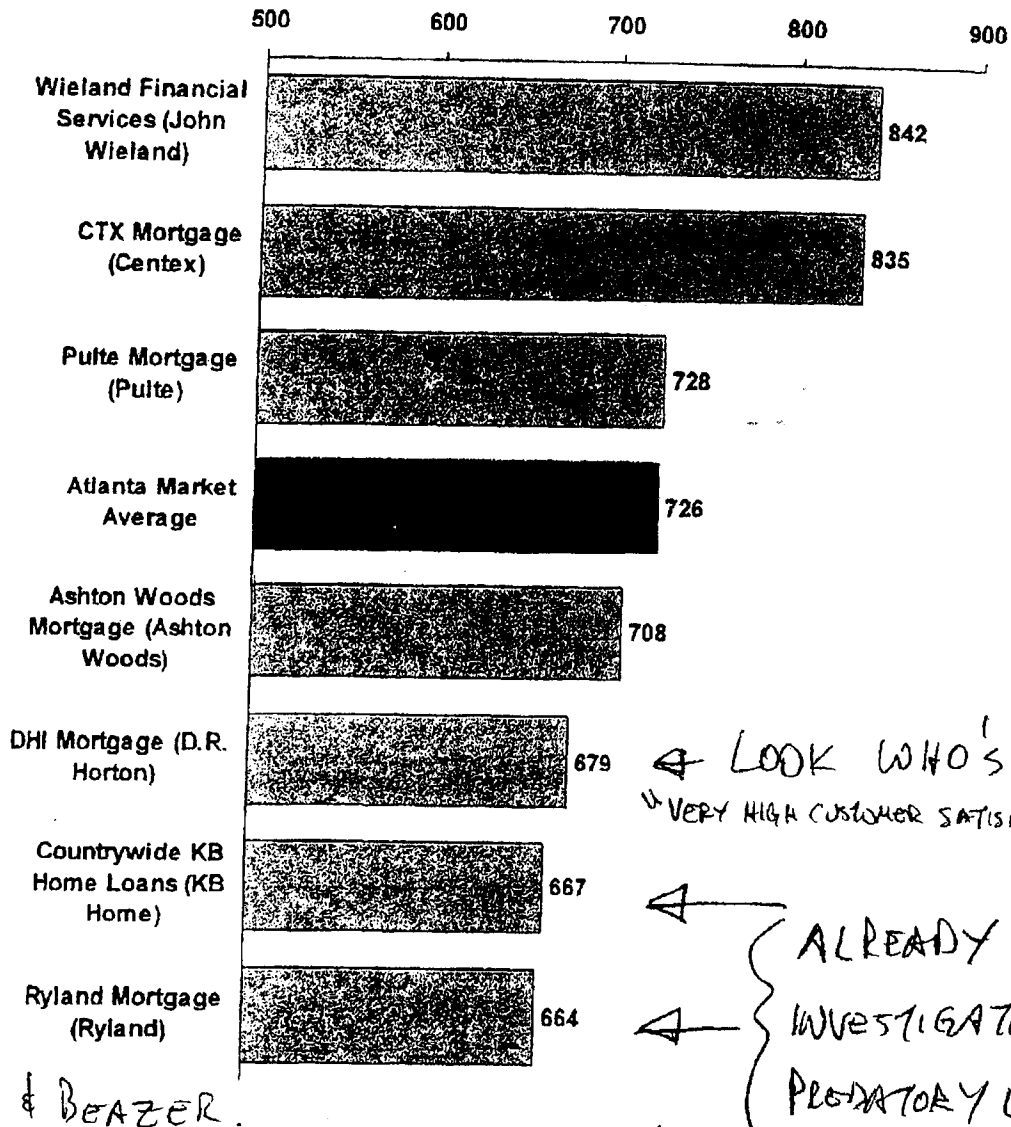
(3) - DR Horton's Recent Experience

In August of 2007, when there appeared to be a possible interruption of product availability in the mortgage banking industry due to liquidity concerns at Countrywide and other major lenders, several D.R. Horton builder divisions effectively did what the current RESPA proposal suggests; they offered incentives based on the use of a preferred, non-affiliated lender in hopes of accessing products still possibly available. As a result, we have the benefit of looking back on this experience to gain insight as to the success and/or problems that arose.

In nearly every case, the preferred non-affiliated lender was a large, national lender who promised product and service, but ultimately did not deliver on such promises. DR Horton homebuilder divisions became very disappointed in the level of service for their customers compared to what its affiliated lender had been providing. The J.D. Power study discussed in the Regulatory Impact Analysis, as well as our own very high customer satisfaction scores, provides

**J.D. Power and Associates**  
**2007 New-Home Builder Mortgage Originator Study<sup>SM</sup>**

Overall Satisfaction Index Scores  
 (Based on a 1,000-point scale)  
**Atlanta**



Source: J.D. Power and Associates 2007 New-Home Builder Mortgage Originator Study<sup>SM</sup>

Charts and graphs extracted from this press release must be accompanied by a statement identifying J.D. Power and Associates as the publisher and the J.D. Power and Associates 2007 New-Home Builder Mortgage Originator Study<sup>SM</sup> as the source. Rankings are based on numerical scores, and not necessarily on statistical significance. No advertising or other promotional use can be made of the information in this release or J.D. Power and Associates study results without the express prior written consent of J.D. Power and Associates.



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EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

NATIONAL ASSOCIATION OF HOME BUILDERS, *et al.*, )

Plaintiffs, )

v. )

Civil Action No. 08-CV-1324 (AJT/TCB)

STEVE PRESTON, Secretary, United States Department of Housing and Urban Development, and UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, )

Defendants. )

**ORDER**

This matter came before the Court on Plaintiffs' Unopposed Motion to Withdraw Motion for Preliminary Injunction Without Prejudice and to Cancel Hearing. After considering Plaintiffs' Motion, and finding that good cause exists for granting the motion:

~~IT IS HEREBY ORDERED~~ that Plaintiffs' Unopposed Motion to Withdraw Motion for Preliminary Injunction is granted without prejudice to file at a later date; and

IT IS FURTHER ORDERED that the hearing scheduled for January 9, 2009, is cancelled.

IT IS SO ORDERED.

DATE: \_\_\_\_\_

HONORABLE ANTHONY J. TRENGA  
UNITED STATES DISTRICT JUDGE

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