

In the News

Helping the Homeless, One Sales Contract at a Time

By adding a “transfer fee” to the price of each new home, Lennar Corp. funds shelters for California’s homeless

When families in Orange County, Calif., buy homes in a Lennar Corp. development, they’re also helping to provide shelter for the area’s homeless. Starting with a few Southern California markets, Lennar has added an innovative fund-raising device to its existing charitable work: Wrapped into each new-home sales contract is a small fee paid by the buyer, with the proceeds dedicated to projects that help homeless people in the same market area.

Lennar already donates 1 percent of its after-tax profits to helping the homeless, via the Lennar Charitable Housing Foundation (www.lennarcares.com). However, funds from the new transfer fee are earmarked for direct support of construction projects — they can’t be used to cover any of the foundation’s administrative costs. To ensure future donations, the transfer fee is written into the home’s deed and title; when the house is resold, the fee is paid again.

The amount per house is relatively small: 0.05 percent of the sales price (just \$50 per \$100,000 of home value). But with a production builder like Lennar, that few hundred dollars per house is multiplied by thousands of houses a year.

“In the big picture,” says Scott Larson, an executive with HomeAid of Orange County (www.homeaidoc.org), “it adds up to a very significant source of funds.” Larson — whose organization works with

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Lennar Corp. acted as “builder captain” on construction of a five-unit apartment building (above left) and a single-family home (above right) at San Miguel Residence, a Mercy Homes project in Orange County, Calif. Lennar carpenters raise a wall (right) at the Hillview Acres halfway house for teenage mothers, funded in part by a transfer fee on new-home sales.



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California workers’ comp rates have dropped by nearly 30 percent since Jan. 1, 2004, according to an article in the June 30 *Sacramento Bee*. The decrease follows extensive workers’ comp legislation passed by the state over the last two years. When presented on June 29 with another workers’ comp bill — this one passed by the Senate to create a commission to set rates — the Assembly insurance committee voted against it, deciding more time was needed for the earlier legislation to have its full impact. The bill’s author, Sen. Richard Alarcón, plans to reintroduce the bill next year, arguing that small businesses are still paying too much.

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home builders to build transitional shelters for people who are temporarily homeless — credits Irvine, Calif., attorney Scott Jackson and Lennar regional executive Jeff Roos with pioneering the idea of using a sales fee to support the charity's work. Lennar is now rolling the policy out to other communities in California, and may eventually bundle the fee into home sales agreements nationwide.

Funds raised by the new technique are spent locally, and for HomeAid of Orange County the program has been a major boon. "Our mission is to add beds in the community," Larson says. "We build for social service groups who work with many types of people — pregnant women, runaway youth, single men, families, victims of domestic violence. We act as their developer, helping them find property, and design and construct their building. We help them raise money, and we help reduce the cost of the project by bringing in resources from the building industry. Typically, we are lowering

the cost of a project by 40 percent to 60 percent."

The idea hasn't been completely without controversy. In an April news story, the *San Diego Union Tribune* noted reservations on the part of several area builders about any increase in home prices for any reason and questions about how the future assessment of the fee would be enforced. Realtors in California have also raised objections, fearing that when a deal is on the line, it might be the real estate agent who ends up paying the transfer fee.

But with home prices appreciating at 7 percent to 10 percent a year in the California market, a \$250 fee on a \$500,000 house is dwarfed by annual capital gains in the tens of thousands of dollars. Says Larson, "There is a lot of hope that other builders will do this as well — and there is an opportunity here for the housing industry to provide a serious amount of funds to help deal with the issues of affordable housing and homelessness." — *Ted Cushman*

Supreme Court Ruling Expands Eminent Domain

In a June 23 decision, the U.S. Supreme Court ruled 5–4 that the city of New London, Conn., could take the land of Susette Kelo and eight other property owners through the power of eminent domain (see *In the News*, December 2004). Unlike eminent domain cases where land is procured for highways, schools, and other projects that are clearly going to be used by the public, economically depressed New London is developing the land into privately held residential, retail, office, and other commercial space. The city claims its plan will provide an overall economic benefit to the public through increased tax revenue, revitalization, and additional jobs.

The provision of the U.S. Constitution debated in the case is a clause in the Fifth Amendment, called the Takings Clause, that reads, "... nor shall private property be taken for public use, without just compensation."

Writing for the majority, Justice John Paul Stevens stated that the issue to be decided was whether economic benefit to the community from private redevelopment could be considered "public use" in the context of the Constitution. In past rulings on the practice of eminent domain, the Supreme Court has upheld state interpretations of "public use" that extend the meaning of the phrase to include greater good or "public purpose." Argued Justice Stevens, "Promoting economic development is a traditional and long-accepted function of government" and thus qualifies as "public purpose."

Justice Sandra Day O'Connor disagreed, contending that every word in the Constitution is there for a reason and the phrase "public use" was intended by the founders to be a safeguard against government abuse of private property. In her dissenting opinion, she wrote, "Under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner." She further wrote, "For

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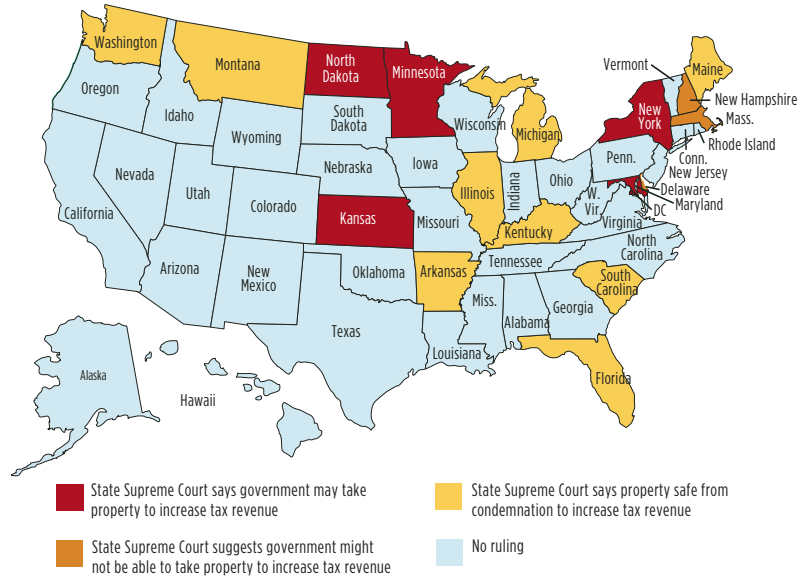
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who among us can say she already makes the most productive or attractive possible use of her property? ... Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory.”

The decision specifically emphasizes that states can restrict what constitutes “public use”; many states already do have such laws prohibiting the use of eminent domain for the purpose of economic development. It remains to be seen whether in the wake of this decision there will be a flurry of legislative activity, as states respond to public fears and pass laws limiting the use of eminent domain — or if there will be a rush by municipalities to implement economic development plans. — *Laurie Elden*

State Supreme Court Rulings On Eminent Domain For Private Development



Architect Works Graveyard Shift



With the help of a former employee, architect Emil L. Larson continued to work even from the grave. John Pavlovich, a draftsman for Larson some 30-plus years ago, allegedly renewed the architect's license and used Larson's seal and designs to get approval for 28 building projects between 1996 and 2001, according to a May 3 article in the *Chicago Tribune*.

When regulators from the Illinois Department of Financial and Professional Regulation first tried to reach the ostensibly 104-year-old Larson during a 2001 probe of licenses of older architects, Pavlovich told them Larson was on vacation — though the architect had in fact passed away in 1993 at the age of 96. On the department's second attempt to contact the architect, Pavlovich told investigators Larson was in Mexico, thinking about retirement.

In August 2003, Pavlovich was ordered to stop his unlicensed practice of architecture; in March 2005, he was fined \$250,000 by the state of Illinois for “impersonating an architect who was dead.” However, his attorney is challenging the fine, claiming that because the buildings have been determined to be safe and there was no harm done, the fine is excessive. — *Laurie Elden*

A Second Life for Old Latex Paint

In keeping with the construction industry's ongoing quest to recycle and reuse, a small number of companies are decreasing the flow of leftover paint into landfills by consolidating or reprocessing it for commercial and consumer use.

No one knows exactly how much paint is sitting around in basements and garages, but the California Integrated Waste Management Board's Web site estimates that the average U.S. household stockpiles 1 to 3 gallons of waste paint. Multiplied by 110 million households, that's a lot of waste.



AEI's crew sorts paint by color and quality (above) before draining it into barrels (right).



Worse, more is being generated daily. David Darling, director of environmental affairs for the National Paint and Coatings Association, calculates that "500 million gallons of architectural latex paint are sold in the United States each year and at least 2 percent of it — 10 million gallons — is left over." Other industry sources put the number even higher, at 5 percent, or 25 million gallons per year.

One company to take advantage of the underutilized supply of old paint is Amazon Environmental Inc. (www.nvo.com/amazon). In business since 1992, AEI collects paint from all over the country and processes it at plants in California, Ohio, and Minnesota. Recently, *JLC* visited AEI's Whittier, Calif., plant to see just how old paint is transformed into new. Here's what we discovered.

Sort and store. According to Fred Bauer, general manager of AEI, the Whittier plant receives more than 1 million gallons of paint per year. Paint cans are delivered to the plant in large boxes, semitrailers, and 40-yard roll-off dumpsters.

"The first and most important step," Bauer says, "is to sort the paint by color and condition." The best-looking paint is sorted and drained into barrels by color — whites, beiges, reds, blues, and so on. Lesser-quality material is divided into dark and light colors and poured into another set of barrels. The dregs —

skins, paint that's gone sour, and exceptionally chunky material — are drained into still other barrels.

"A significant portion of the cans contain paint that has turned into dried-up hockey pucks," says Bauer, "and most paint recyclers can't do anything with them." AEI uses a patented process to turn the dried material and liquid dregs into processed latex pigment (PLP), a powderlike material that's used in the manufacture of Portland cement. Says Bauer, "This process allows us to recycle 100 percent of the paint we receive."

Once a barrel is filled with paint, it is closed, labeled by contents, and stored for later processing. The empty metal

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A technician pumps paint out of a barrel through filters (left) and into a 500-gallon vat (above). Then a giant mixer blends the paint with pigment and additives.

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cans are flattened and sent to a steel company that uses them to make rebar. AEI has yet to come up with a way to recycle plastic paint containers, so they're the one item that still goes to the landfill.

Industrial grade. The lesser-quality liquid paint is pumped through a coarse filter to remove the largest chunks and then through a series of successively finer filters until it's fine enough to be applied with a paint sprayer. The strained paint is pumped into a 500-gallon vat and blended with a machine that looks like a giant kitchen mixer. Dark colors mix to become a cocoa brown; light ones form a nondescript shade of gray.

The resulting material is packaged in 5-gallon pails and 55-gallon drums and either sold or donated for use as industrial-grade paint. The gray is typically used to paint over graffiti on concrete, for low-cost housing rehabs, and on institutional walls. The brown might be used to paint municipal utility structures.

Consumer grade. The best material is reprocessed to become one of about a dozen standard colors that are sold as Amazon Select paint, or private-labeled and sold under a number of different brands. Large-volume buyers can get it custom tinted. A green builder might buy the paint for its recycled content; others are simply attracted by the price — typically half that of virgin paint.

According to Bauer, AEI's reprocessed paint is comparable in quality to virgin paint. The color, however, is less consistent from batch to batch, because, unlike paint manufacturers, AEI is never quite sure what the base material contains.

The reprocessed paint is pumped through a series of filters and blended in a vat. Technicians sample the



The reprocessed paint is analyzed in an on-site lab (above); when up to spec, it's packaged in 5-gallon pails (left) or 55-gallon drums.

blended paint and test it for viscosity, pH, sheen, and color. If the paint is too thick, they add water; if it's too thin, cellulose. Because paint's pH tends to drop over time, AEI's technicians bring the blended material back up to the specified pH by adding amines or ammonia to the vat. Additives can be used to increase the usually flat sheen of blended paint to eggshell or semigloss.

The final step is to tint the paint by adding recycled colored paint and concentrated pigment. Because they are working with an unknown base, the technicians must custom color-match each batch, which they do by drying samples of the paint and running them through an optical scanner that indicates what colors need to be added. Once reprocessing is complete, Amazon's paint can be sprayed, rolled, or brushed on just like any other paint. — *David Frane*



DeWalt's Model D55143 Three-Gallon Hand-Carry Oil-Free Air Compressor is the subject of a June 21 recall by the company and the U.S. Consumer Product Safety Commission. The 185 recalled compressors use defective wiring insulation that poses an electric-shock hazard. Affected units were made in China and have the following date codes on the rear air tank: 200448, 200453, 200502 through 200505, 200508, and 200509. Contact DeWalt at 866/397-3228 or at www.dewalt.com.

Housing Market Soars, Affordability Declines, Says Harvard Study

Fueled by low mortgage rates, an increasing demand for housing from growing Hispanic and Asian populations, and general job and income growth, the current housing boom should remain strong into the next decade. That's the forecast from the Joint Center for Housing Studies at Harvard University, detailed in the organization's most recent annual report on the state of the nation's housing.

In 2004, most housing market indicators set all-time highs. And, while acknowledging concerns about regional housing price "bubbles" and recent rises in short-term interest rates, the Harvard study cites a number of factors that indicate the robust overall market will continue. For example, housing starts aren't outpacing demand, as reflected by the near-record low level of inventory of new homes for sale. And the surge in house prices is countered by low long-term mortgage rates, a growing menu of mortgage options — including adjustable-rate hybrid loans and interest-only loans — and by the nation's general economic recovery, which the authors of the report expect will buffer the effects of any rise in long-term interest rates.

Interestingly, the report points to immigration as one of the engines driving the hot housing market. New-home sales among minority households — primarily Hispanic and Asian — have nearly doubled over the last 12 years, from 13 percent of total sales in 1991 to 24 percent in 2003. In addition, the children of immigrants who arrived in the 1980s and '90s now account for 21 percent of the total U.S. population between the ages of one and 10; they're expected to out-earn their parents and add significantly to the number of first-time home buyers in the coming years. In fact, immigration is expected to account for a third of net household growth over the next 10 years, helping to create a demand for up to 20 million units of new housing.

Tempering this outlook is concern about the growing affordability gap. Ratios of house prices to median household incomes are at 25-year highs in most metropolitan areas, so even with low mortgage rates, first-time

buyers are struggling to enter the market. Meanwhile, speculation is becoming another factor driving up housing prices, as more investors turn to real estate as an alternative to flat stock and bond markets. And as most new homes continue to be built in lower-density areas where land is cheaper and in greater supply, those seeking relief from high housing costs by moving into these outlying developments are faced with longer commutes and significantly higher transportation costs, which often negate their mortgage savings.

High home prices notwithstanding, low mortgage rates still make homeownership an attractive enough option that the rental market has remained flat for the past decade. At the same time, conditions that discourage the construction of new affordable rental housing — including cuts in government housing subsidies, adverse tax laws, and stringent building codes — have resulted in a rapid decline in the \$400/month units that the 31 percent of rental households earning less than \$16,000 per year can afford.

Much of the affordability problem, the report notes, can be traced to the high costs of supplying housing and the large number of low-wage jobs that the economy is producing. Indeed, as rent, mortgage, property tax, utility, and transportation costs continue to rise, so does the percentage of households paying a disproportionate share of their monthly income toward housing expenses. The authors of the report predict that as this affordability problem moves up the income ladder to affect more and more middle-class Americans, political pressure will build to explore community development and housing programs and to address ongoing issues that limit new development, such as land-use regulations, permitting, impact fees, and restrictions on residential density.

For an online version of the report, go to www.jchs.harvard.edu/publications/markets/son2005/.

— *Andrew Wormer*