

HOMEOWNERS FOR BETTER BUILDING



Newsletter

A Message from
Janet Ahmad, President
 HomeOwners for Better Building

It has been a while since I last reported. The reason is that the momentum is picking up across the country and time has not permitted. The hard work of many dedicated people is finally paying off with recognition by federal agencies, elected officials and the news media.

IN THIS ISSUE:

National News

- "The American Homebuyers Protection Act" and the , " American Homebuyers Protection Act" and H.R. 2258, "The Consumer Fairness Act."
- "DEED IN LIEU OF FORECLOSURE" FHA and VA have a program entitled "DEED IN LIEU OF FORECLOSURE."
- US SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS HOLDS HEARINGS ON JUNE 29, 2000

State News:

Georgia in the News

- GEORGIA HOSTS REGIONAL MEETING

Texas in the News

- Kaufman & Broad is Featured in the News
 - Henry Cisneros Meets with HomeOwners for Better Building
 - HomeOwners for Better Building Commissions Engineering Study
 - Kaufman & Broad - BROKEN PROMISE!
- HOMES IN CREEKSIDE SUBDIVISION IN FLOOD PLAIN
- FOX TV REPORTED HOME OWNER BITTEN BY SNAKE! Kaufman & Broad agrees to buyback a home in just 3 days!
- DANGEROUS WATER HEATER VICTORY! FIRES PROVE: ELECTRICITY AND WATER DON'T MIX

Kentucky in the News

- Messages from Charles & Ainslie Vice, Chapter Presidents
- KENTUCKY VICTORY

- THE MANFRED AND CHERIE ECKER STORY:

Florida in the News

- Messages from Linda Armstrong, Chapter President
- CONVICTED FELON, DIRECTOR OF THE CONSTRUCTION INDUSTRY LICENSING BOARD, FIRED
- STORAGE FACILITY COLLAPSES - NO BUILDING PERMIT
- Mold & Formaldehyde Fumes Alert in Ft. Meyers and Pulte Homes Featured in TV News Story
- Ryland Homes in the News
- HomeOwners for Better Building FLORIDA CHAPTER PRESIDENT SPEAKS TO AMERICAN SOCIETY OF HOME INSPECTORS:
- DIANE WOLINSKI NAMED TO STATE BOARD AND HEAD OF "JAG" CLEARING HOUSE
- CITIZENS FOR TREE PRESERVATION A LINDSLIDE VICTORY

California In The News

- Messages from Judy Doyle, Chapter President (See "Love Canal II" and Judy's home featured on *HOBB's* website)
- TOXIC WASTE SITES AND HOME BUILDING
- JMC HOMES: HEATHER GLEN ESTATES - SACRAMENTO CALIFORNIA:
- WINDSOR RIDGE ESTATES, ROCKLIN CALIFORNIA:
- WOODCREEK OAKS, UNITS, A & B:
- HAMPTON VILLAGE, ELK GROVE CALIFORNIA:
- Kaufman & Broad in the California News
- Mather Air Force Base, Rancho Cordova, California

NATIONAL NEWS

Congressmen Charles Gonzalez and Ciro Rodriguez File

H. R. 5033

“The American Homebuyers Protection Act”

By far the biggest event was the filing of H.R. 5033 by Texas Congressmen Gonzalez and Rodriguez. The text reads: **“In General - No person engaged in the construction of new houses may require a purchaser to enter into a mandatory arbitration agreement as a condition precedent to entering into a contract for the purchase of a new house.”**

The bill is designed to protect home buyers from the abuses of Mandatory Binding Arbitration Clauses by builders who will not sell a home unless the buyer agrees to give up their Constitutional Right to sue the builder in a court of law. Any agreement to arbitrate must contain the following statement: **“By Agreeing to Binding Arbitration You Are Giving Up Your Right To Go To Court.”**

“The Consumer Fairness Act,” H.R. 2258, which was filed in 1999 by Congressman Luis V. Gutierrez from Illinois, will also "prohibit pre-dispute, mandatory arbitration" on **all consumer purchases**.

Remember these bills have a long way to go before becoming law. Please write your Congressmen and Senators asking their support of **H.R. 5033, "American Homebuyers Protection Act"** and **H.R. 2258, “The Consumer Fairness Act.”**

Our Special Thanks to the Congressmen!

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### **“DEED IN LIEU OF FORECLOSURE”**

FHA and VA have a program entitled **“DEED IN LIEU OF FORECLOSURE.”** This program **may be an alternative** for disillusioned homeowners who can not sell their homes because of the high cost of maintenance associated with defective products, such as siding, cracked foundations and structural defects, etc.

#### **U.S. Department of HUD**

#### **“Alternatives to Foreclosure of an FHA Insured Mortgage”**

**“DEED-IN-LIEU (DIL) of FORECLOSURE - FHA**, through the lender, pays an incentive to borrowers to encourage borrowers facing inevitable foreclosure to transfer the deed to their property to the lender or FHA in lieu of foreclosure. Like the pre-foreclosure sales process, a DIL also enables the borrower to avoid adverse consequences associated with foreclosure. Utilizing alternatives to foreclosure is a positive action which benefits lenders, homeowners, and FHA.

**IF YOU ARE INTERESTED IN MORE INFORMATION ON ANY OF THE ABOVE OPTIONS, CONTACT YOUR LENDER, OR ANY HOUSING COUNSELING AGENCY.**

**“Alternatives to Foreclosure on VA Guaranteed Home Loans”**

“Owners of properties securing U.S. Department of Veterans Affairs (VA) guaranteed loans, who have difficulty maintaining monthly payments on their loans, need to be aware of various alternatives to permitting the loan to be foreclosed. In most cases, these alternatives have significant advantages for the homeowner and for the Government. Following is a discussion of these alternatives.”

**“DEED IN LIEU OF FORECLOSURE”**

“If a private sale is not feasible (or a buyer cannot be found in a reasonable period of time) and a foreclosure is otherwise inevitable, a **“deed in lieu of foreclosure”** (voluntary conveyance from the borrower to VA) is another acceptable alternative to foreclosure which may be used. In addition to the information needed for the approval of a compromise sale, a title report indicating that title to the property is free of any other liens and an appraisal performed by a VA-approved appraiser are required for a deed in lieu of foreclosure. Upon receipt of all required information, VA will notify the holder whether the deed is acceptable.”

**“Today's Disposable House is Tomorrow's Foreclosure”**

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**US SENATE PERMANENT SUBCOMMITTEE ON
INVESTIGATIONS**

HOLDS HEARINGS ON JUNE 29, 2000

**United States General Accounting Office (GAO) Testimony:
“SINGLE-FAMILY HOUSING”**

“Stronger Oversight of FHA Lenders Could Reduce HUD’s Insurance Risk”

“In summary, our work reveals a number of weaknesses in the lender approval, monitoring, and enforcement efforts performed by HUD’s headquarters and its four homeownership centers. although HUD has taken enforcement actions against lenders with **excessively high default rates**, it needs to take further steps to hold lenders accountable for poor performance and program violations.”

“Lenders with direct endorsement authority underwrite virtually all FHA-insured mortgages for single-family homes. **Direct Endorsement Approval Process Provides Limited Assurance That Lenders are Qualified.** “To strengthen HUD’s enforcement efforts against lenders, our report recommends that HUD clarify and implement guidelines for identifying lenders whose direct endorsement authority should be suspended.”

This is an area that needs close monitoring by *HomeOwners for Better Building (HOBB)*. There are indications that many homeowners have allowed their homes to go into foreclosure when faced with the costly repair of defects in their homes.



NEWS FROM THE STATE CHAPTERS

GEORGIA HOSTS REGIONAL MEETING

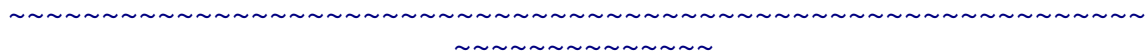
An invitation was extended by our Georgia Chapter to hold a regional meeting. On August 21 and 22, the meeting was hosted by the beautiful City of Savannah. The food and hospitality

were wonderful. Success was evident by the many new members that joined in our efforts. But of course, it is most unfortunate that our success must be measured by the heartbreaking stories that are abundant throughout Georgia and adjoining states. Our meeting and home building problems were the led stories on the 11 p.m. news.

Among those attending were: Flo Roberts/Osteen, President and Brenda Tomlinson, Vice President of our Georgia Chapter, Linda Armstrong, President and Diane Wolinski, Vice President of our Florida Chapter and Gloria Adams, President of our South Carolina Chapter.

There was a press conference and book signing by Billy Doniel, the author of "**A Promise Kept.**" For those of you who are not familiar with Mr. Doniel's book, it exposes the tragic death of Teresa Yarbrough who was killed in a fire caused by faulty wiring that was over looked by careless building inspectors. Mr. Doniel's book is a must for all to read and can be found on *Amazon.com*.

All in all, I highly recommend and encourage regional meetings to stimulate local chapter's organizational efforts and gain recognition by local officials and news media.



Texas in the News

AND

Kaufman & Broad is Featured in the News

Kaufman & Broad has given *HomeOwners for Better Building (HOBB)* in Texas a reason to grow and achieve several victories. We have been successful in getting homes repaired when homeowners had all but given up. Kaufman & Broad actually bought a number of homes back.

San Antonio *EXPRESS NEWS* reported:>> **"Builder looks at home buyouts"** (See articles on *HOBB* website)

>> **"Cisneros coming back to S.A."**

>> **"Cisneros' future is interesting as his past"**

>> **"Our one-of-a-kind prodigal son returns"**

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### **Kaufman & Broad Home Buyouts!**

While Kaufman & Broad was busy trying to negotiate buyouts in the Northampton Subdivision, Kaufman and Broad announced that the former Secretary of HUD, Henry Cisneros has formed a joint venture with Kaufman & Broad and has returned to San Antonio. Cisneros is the Chairman of American City Vista, which is an affordable housing venture with Kaufman & Broad Homes. Cisneros was also given a seat on the Board of Kaufman & Broad.

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Henry Cisneros Meets with HomeOwners for Better Building and Disgruntled Northampton Homeowners

Shortly after Cisneros' return to San Antonio, we were encouraged when he asked to meet with *HomeOwners for Better Building (HOBB)* to discuss the problems with the Northampton Subdivision. During the visit and tour of the Northampton and Ventura Subdivisions, on September 9, Cisneros expressed a genuine concern and sympathy for homeowners and a desire to help. Our expectations were high, that finally a positive dialog would be established with Kaufman & Broad.

However, a subsequent meeting with Buddy Goodwin, the head of Kaufman & Broad of Texas, produced nothing of substance. **We are still waiting for something positive from the former Secretary of HUD, but instead all we see are his commercials about the large, low-income housing projects that he and Kaufman & Broad are constructing.**

HomeOwners for Better Building (HOBB) has been active with a number Kaufman and Broad subdivisions, but of course the most publicized is the Northampton Subdivision. All indications are that Northampton was built within 3,000 feet of three landfills, has been built on expansive soil, has inadequate surface drainage, and springs. The soil has been identified in several reports as Houston Black Clay. The City of San Antonio, Public Works Department, conducted a Phase One Environmental Site Assessment of the Northampton Subdivision, dated July, 2000 and reported the following:

"...several potential environmental concerns were noted on the subject site through the historical review of aerial photographs and USGS maps, and visual site inspection of the adjoining parcels. Additionally, several new residential structures were observed with significant exterior and interior cracks. Groundwater seepage was also identified in the yards of some of the residences."

“...evidence of filling activities was observed on the southwest portion of subject site.” “Houston Black Clay is identified throughout the subject site. *It is commonly known to be highly expansive, unstable, and generally unsuitable for foundations and road pavements.* Fluctuating groundwater conditions could decrease soil stability.... Please note that the Houston black clay identified in this area can also *cause structural cracks, foundation failures, and groundwater seepage as observed in this assessment.*”

“A Phase II subsurface investigation should be performed to determine the presence of, and the composition, of the suspect landfills. *This study should also include a geotechnical investigation and evaluation of foundation design for the geotechnical constraints.*”

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### **HomeOwners for Better Building Commissions Engineering Study** **Dr. Al Hays, Environmental Engineer, Confirms Landfill Sites**

A new study conducted by Dr. Al Hays, of Kingsbury, Texas, an Environmental Engineer of Hays Environmental Engineering Inc., has been completed. Using latitudes and longitudes provided by state records, Dr. Hays has confirmed the location of the previously documented municipal dumps. Further, State aerial maps show extensive land disturbances that supports that one of the locations is in what is now the Ventura Subdivision which is directly adjacent to the Northampton Subdivision.

**Dr. Hays concludes: “This proximity could create the possibility of an endangerment to either human health or the environment through the agency of groundwater contamination from garbage contained in the municipal landfill sites. Since natural springs have existed in this general area prior to any development, the possibility of contamination is made all the more crucial, especially since some homeowners have come into contact with surfacing groundwater in the streets and inside their residential lots.”**

Further light has been shed on the landfills and tributaries that were covered over by the developer, and is believed to be the source of the groundwater seepage. The grandson of the previous owner of the land, who grew up on the Northampton property, witnessed garbage dumping as well as the origins of water. “The original water well, on the highest point of the property, was only 30 feet deep and never went dry,” according to the grandson.

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Kaufman & Broad - BROKEN PROMISE! **Key Committee Members Resign In Protest**

To appease enraged homeowners, Kaufman & Broad promised to conduct a **Phase II Study** and formed the “Northampton Environmental Committee.” Several key committee members resigned in protest after they learned the engineering firm was not conducting a Phase II Study. Of course, ultimately Kaufman & Broad announced that they had found nothing.

NO PHASE II STUDY WAS PERFORMED!

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**HOMES IN CREEKSIDE SUBDIVISION IN FLOOD PLAIN**  
**Home Owner Snake Bitten!**

**HOME OWNER OF CREEKSIDE SUBDIVISION REPORTS:** It appears nearly 200 homeowners of the Creekside Subdivision, located in San Antonio, are in the flood plain because Kaufman & Broad failed to complete a required drainage project. Records indicate Kaufman & Broad did not disclose the problem to the buyers when they sold them the homes. When the Home Owners Association found out about the problem around April, 1999, they chose to utilize the associations' funds to pay Mark Brown Engineering \$25,000 to try and solve the problem. Mark Brown Engineering is the same firm hired by Kaufman & Broad who performed the original engineering for the subdivision. When one board member was asked why Kaufman & Broad did not pay the engineer, their response was, "Kaufman & Broad refused."

**FOX TV REPORTED HOME OWNER BITTEN BY SNAKE!** Kaufman & Broad agrees to buyback a home in just 3 days! While demonstrating defects in his siding, to a Kaufman & Broad employee, a homeowner was bitten by what is believed to be a "**RATTLER**" that was nesting with its family behind the siding. The home owner was treated at the VA Hospital. The buyback negotiation was handled personally by Buddy Goodwin, head of Kaufman & Broad of Texas.

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DANGEROUS WATER HEATER VICTORY!

FIRES PROVE: ELECTRICITY AND WATER DON'T MIX: San Antonio Building Official, Gene Carmargo, claimed he had "**Discretion and Immunity**" to interpret/deviate from the National Electrical Code adopted by the City, HUD, VA & FHA. Building Officials have allowed stacked units, where **water heaters** are installed in the return air plenum, directly beneath the **heating/air conditioning systems**. The opinion of Texas Department of Licensing and Regulation is that this does not comply with the National Electrical Code. The National Electrical Code states: "**The intent of Section 300-22 is to limit the use of materials that would contribute smoke and products of combustion during a fire in an area that handles environmental air...**" The City Council of San Antonio directed the staff to study this issue and report back with safer alternative installation methods. (See San Antonio Express News reports on HOBBS web site.)

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**Kentucky in the News**

Messages from Charles & Ainslie Vice, Chapter Presidents

**KENTUCKY VICTORY:** HomeOwners for Better Building, Chapter President, Ainslie Vice, supported Builder/Contractor Registration in Lexington/Fayette County, by serving as a member of the subcommittee who drafted the Ordinance, that becomes effective January 1, 2001. This is the first Builder/Contractor Ordinance in the Commonwealth. Ainslie has also been

appointed to serve as the Homeowner Representative on the seven-member

Contractor's Review Board, which was created as a part of the Ordinance. This Board's purpose is to hear disputes between homeowners and builders/contractors that are not resolved by other methods.

**THE MANFRED AND CHERIE ECKER STORY:** Manfred Ecker a blacksmith, who lived in Chicago with his wife, Cherie, decided to retire to Lexington, Kentucky and raise miniature horses. Despite carefully checking on their builder to construct a retirement home, their move to Kentucky proved to be a disaster, which wiped out their entire life savings/retirement of \$400,000. First, they were forced, for three months, to live in their van used for horse shoeing. Then finally to a makeshift room, which they have been confined to **since July of 1997, with no heat or air conditioning or running water and only a make shift bathroom. When one looks up, they see the underside of the corrugated roof where daylight penetrates as does the rain, and the SNOW in the winter. The roof rafters that support the corrugated roof are 10 FEET on center and the studs are 5 FEET apart, with only the makeshift room having sheetrock. One wall collapsed completely after a short time and the lumber used to frame the house was the same used to form the foundation. On two occasions Mr. Ecker told their horribly compelling story to Lexington's Urban County Government Council. When finished, the Mayor said, "Thank you Mr. Ecker. Next speaker."**

### **WHY DID CITY & COUNTY OFFICIALS FAIL THE ECKER'S ?**

**EDITORIAL COMMENTS by Janet Ahmad:** Seeing is believing and shocking is just one word to describe their living conditions. I have shown the astonishing Ecker video to people across the country and the most common question asked is: "How could the City of Lexington allow this to happen?"

What has become of elected leaders and society when they turn their backs on their neighbors? Not too many years ago the people of Kentucky and their forefathers helped neighbors build and rebuild their barns and houses when they had a disaster. In fact, houses and barns were built to a higher standard and completed.

**Today there is silence.**

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Florida in the News

Messages from Linda Armstrong, Chapter President

CONVICTED FELON, DIRECTOR OF THE CONSTRUCTION INDUSTRY LICENSING BOARD, FIRED: It was discovered that the Director of the Construction Industry Licensing Board (CILB) was a convicted felon. The head of a Jacksonville-based State Construction Board has been fired in an ongoing change of administrators at Florida's Department of Business and Professional Regulation. **Rodney Hurst, a former**

Jacksonville city councilman, who went to prison in the 1980's, had been executive director of the CILB since 1996.

STORAGE FACILITY COLLAPSES - NO BUILDING PERMIT: In Jacksonville, the collapse of a 98% complete, 14-story coal storage facility, under construction for the Jacksonville Electric Authority, injured 11 workers. The structure had no building permit. See story on our website.

**Mold & Formaldehyde Fumes Alert in Ft. Meyers
and
Pulte Homes Featured in TV News Story**

Tragic New out of Ft. Meyers: WINK-TV did a feature series about Bill Hoesch and his Pulte home. Due to moisture intrusion, Mr. Hoesch slipped on a wet floor and had surgery to fuse vertebrae in his neck. He is only 31 years old and now disabled with a wife and a five-year-old daughter. **The Health Department condemned his home and sealed it as a biohazard. The hidden mold was so severe the family had to move out and leave behind their personal possessions and furniture.** There are numerous homes in this area with similar problems, which is developing into a class-action suit. The "Ft. Meyers News Press" has also done features on this situation.

One of the hidden problems, besides mold, with the moisture intrusion, is that the adhesives in OSB (particle board) used in almost all homes in this moist humid climate, contains formaldehyde. **The fumes of formaldehyde are getting into the homes of countless unknowing homeowners.** Watch for future developments regarding this issue.

Ryland Homes in the News

Homeowner David Pearl addressed the State Building Code Administrators and Inspectors Board. Mr. Pearl was featured in a series of articles by the "St. Petersburg Times," November 16, 1999 and March 14, 2000, which are on our website. The State sent 2 independent structural engineers to examine his Ryland home almost three years ago. **The engineers determined that the gable design was flawed and could not withstand winds of over 57 mph.** Despite this flaw, Ryland, or the State, have not notified homeowners of this problem and have continued to construct the same model home. Mr. Pearl, a senior citizen, and his lovely wife, drove three hours to Tallahassee, the State Capitol, for a meeting with DBPR officials, only to be told they had no meeting and were escorted out of the building by capitol police. Is this politics? Watch for future developments regarding this issue.

HomeOwners for Better Building FLORIDA CHAPTER PRESIDENT SPEAKS TO AMERICAN SOCIETY OF HOME INSPECTORS:

Recently, Florida *HOB*B Chapter President, Linda Armstrong, spoke at a breakfast meeting of the Northeast Florida Chapter of the *American Society of Home Inspectors*. They will provide us with information and we will file

appropriate complaints. The ASHI inspectors need to remain unnamed to protect their livelihood. This gives *HomeOwners for Better Building (HOBB)* the potential to establish patterns of problems with particular areas or builders.

DIANE WOLINSKI NAMED TO STATE BOARD AND HEAD OF "JAG" CLEARING HOUSE: *HOBB* Florida is very pleased to announce the addition of Diane Wolinski to our State Board. Ms. Wolinski is a chemist with 20 years of experience and her knowledge of toxic matters is invaluable. She is very active in the community and currently in the process of obtaining her law degree. *HOBB* will soon have a new link. *HOBB* Florida Board Member, Diane Wolinski, is leading this charge. *Jacksonville Action Group (JAG)* has been formed and the website is under construction. Linda Armstrong will also sit on the *JAG* Board, that will be a clearing house for all citizens to gain, gather and share information. We will address building, zoning and helping citizens gain access to what should be public records. People need to be informed and feel they are not alone. We will gather our troops, mobilize and get action!

CITIZENS FOR TREE PRESERVATION A LINDSLIDE VICTORY: *HOBB* Florida has been very active in the *Citizens for Tree Preservation*, and boy did it pay off. The citizens of Jacksonville passed a Charter Amendment for better tree preservation 76% to 24%. This is the largest margin of victory ever in Jacksonville history. This was a true grassroots democratic petition drive. **Builders Opposed Tree Preservation.**

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## **California In The News**

**Messages from Judy Doyle, Chapter President**

(See "Love Canal II" and Judy's home featured on *HOBB's* website)

### **TOXIC WASTE SITES AND HOME BUILDING**

**JMC HOMES: HEATHER GLEN ESTATES - SACRAMENTO CALIFORNIA:** Because of the burial pits and burn pits placed on the property by McClellan Air Force Base prior to the construction of the loan collateral, and the fact that there was no Soil Report, Environmental Impact Report or Negative Declaration, it is believed that both State and Federal laws were violated. **Watch for future developments regarding this issue.**

**WINDSOR RIDGE ESTATES, ROCKLIN CALIFORNIA:** This subdivision was built on top of a landfill and several homeowners were forced to move from their homes due to TCE wicking into their homes through the concrete slabs. It is believed that this subdivision did not meet Federal or State minimum standards.

**WOODCREEK OAKS, UNITS, A & B:** The county tax assessor has devalued one of the six-year-old homes in this subdivision from \$190,000 to \$50,000. The retired Civil Service Employee (she is noted for saving President

Reagan's life) has been devastated. This subdivision was approved to receive FHA and VA insured financing.

**HAMPTON VILLAGE, ELK GROVE CALIFORNIA:** These homes were built under the shadows of three building size propane tanks. This is a direct violation of HUD and VA standards for safe, affordable housing. There is currently a class-action suit filed by some of the homeowners against the builders, John and Laura Mourier, JMC Homes.

### **Kaufman & Broad in the California News**

#### **Mather Air Force Base, Rancho Cordova, California**

Kaufman & Broad have built 2,171 homes on known contaminated land and the water servicing this subdivision is known to contain high levels of TCE. The homes were financed through FHA/HUD, VA and Cal-Vet insured loans. Because of the toxic waste, we believe selling the homes through those programs is a violation of HUD, 24 CFR 200.926d.

**Sacramento City Unified School District turned down purchasing the 70 acre track of land southwest of the former Mather Air Force Base because of possible environmental contaminants at the site and concerns about expansion of Mather Airport.**

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Do you have a bad-builder story? Please contact us.

HOBB National Board of Directors

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