

## **Polaris Area Homebuyers Sue Dominion Homes CEO and Corporate Executive Vice-President**

Controversy Surrounding Gift Funds from the Nehemiah Corporation Sends Home Builder Back to Court.

Midwestern homebuilder, Dominion Homes, Inc., battles yet another lawsuit regarding down payment assistance funds allocated to homebuyers. In the case of *Rudawsky, et al. v. Borrer, et. al*, the plaintiffs allege that as a result of Dominion's cooperation with the Nehemiah Corporation's down payment assistance program which helped them to finance their condominium homes at the Villages of Polaris Park, they incurred financial injuries among other damages. The plaintiffs purport that Dominion Homes' participation with the Nehemiah Corporation violated numerous federal statutes as well as the Ohio Law including breach of contract and fraudulent representations and wish to collect damages including punitive damages, actual damages and attorney fees and costs. The case specifically names two Dominion Homes corporate representatives, Dominion's Chief Executive Officer, Douglas G. Borrer, and his brother, David, the company's Corporate Executive Vice-President for their alleged involvement.

The Nehemiah Program allocates gift funds to new and repeat homebuyers with the goal of making the purchase of a home more achievable for interested buyers. These gift funds cover up to 6% of the final contract sales of a home which can be applied to closing costs or a down payment. According to the program's website, those who qualify for the program do not have to repay the gift funds and are only charged a small processing fee. The Department of Housing and Urban Development (HUD) considered at one time, prohibiting gift funds associated with government-insured mortgage loans but has continued to allow the existence of gift fund programs with increased regulations.

The plaintiffs brought forward their case against Dominion Homes hoping to bring the suit to class action status, opening the class to any homebuyers involved with the aforementioned down payment assistance program from 1999 to the present. The proposed class action suit would have included as many as 6,000 homebuyers who purchased their home from Dominion Homes with assistance from the Nehemiah Program. In a September 30, 2008, decision by the Southern District Court, the court denied the plaintiff's motion for class certification in favor of leaving the suit to move forward with only the original individual claims, a significant victory for Dominion Homes who will now only face four named plaintiffs instead of a class of as many as 6,000 former homebuyers.