



**Testimony of Christopher P. Gamvroulas**

**President, Ivory Development**

**On Behalf of the**

**National Association of Home Builders**

**Before the**

**House Judiciary Committee**

**Subcommittee on Immigration and Border Security**

**Hearing on**

**How E-Verify Works and How It Benefits American Employers and Workers**

**Wednesday, February 27, 2013**

## **Introduction**

On behalf of the more than 140,000 members of the National Association of Home Builders (NAHB), I want to thank you for this opportunity to testify today on the E-Verify program. My name is Chris Gamvroulas, and I am the President of Ivory Development, the development affiliate of Ivory Homes based in Salt Lake City, Utah. The Ivory family of companies includes Ivory Homes, Ivory Development, and ICO Commercial Management. We are the largest homebuilder, land developer, and multi-family builder in Utah. Since 1996, I have overseen the land acquisition, planning, entitlement and construction of over 14,000 home sites, and hundreds of acres of retail, industrial and commercial properties.

To ensure Ivory Homes only employs individuals authorized to work in the United States, we use the E-Verify employment verification system. We also contract with a third-party who performs background checks on prospective employees to help ensure workplace safety and integrity. We dedicate our best efforts to complete our due diligence and to comply with the law.

In 2010, the state of Utah imposed a requirement that all employers with 15 or more employees must register with and use E-Verify. There are no financial penalties, but employers who are noncompliant cannot hire any new employees until they come into compliance with the law.

Ivory Homes was skeptical when the state of Utah first proposed these new verification requirements. However, once the state enacted the law, we thought it was very important to embrace the new requirements. Thus, Ivory Homes immediately came into compliance with the new E-Verify requirements, and we quickly trained our human resources personnel to act in accordance with the law. On the whole, we have found E-Verify to be an efficient and effective system.

Generally speaking, the system is easy to use and has the potential for very quick turn-around. The law itself simply requires an employer to input an employee's identification data online, which is then matched with U.S. Department of Homeland Security and Social Security Administration's records. If there is a mismatch, E-Verify immediately notifies the employer, and the employer is then required by law to provide particular information about the employee's rights to resolve the mismatch. It is then incumbent upon the employee to choose whether to contest the mismatch with the federal government within the next ten work days.

Since 2010, Ivory Homes has processed approximately 320 employees through E-Verify. In all that time, we have only had two hires who received tentative non-confirmations, neither of whom protested the mismatches. We have seen an uptick in applicants refrain from pursuing our jobs once they learn their identification will be processed in E-Verify. We believe this is evidence that E-Verify is working as intended, as it is possible that potential hires who might be undocumented are self-policing.

The implementation of the system has not been without its problems; however, none of them has proven to be impossible to overcome. For example, there is no notification of when the system is updated and training requirements have to be passed, and that has caused some confusion and

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delays with our human resources personnel. There must also be a better way to inform and educate small businesses about the requirements of and changes to the program beyond what is in the *Federal Register*. These are simple improvements that would enhance the system and make it more user friendly for all businesses, large and small.

As an employer, it would be preferable for our company to begin the E-Verify process when a worker accepts a position, rather than be required to wait until after the worker's start date. If a newly hired employee eventually receives a final non-confirmation confirming that they are ineligible to work, we would lose time and resources dedicated to training that employee, only to have to start the process all over again. Allowing us to verify our workers' status the day they accept the job offer will give us more lead time to handle tentative non-confirmations.

**Prior Support for E-Verify Legislation**

Last Congress, NAHB, of which Ivory Homes is a member, supported the Legal Workforce Act (H.R. 2885), introduced by then-Chairman of the House Judiciary Committee, Rep. Lamar Smith (R-TX). This legislation was an important first step in creating a system that is workable. All of the following elements were included in H.R. 2885, and we hope to see them again in any new legislation.

Under current law, Ivory Homes, like all employers, are responsible for verification of the identity and work authorization status of their direct employees only. The program must continue to focus on the direct employer-employee relationship, holding every U.S. employer accountable only for the identity and work authorization status of their direct employees. While we do not verify the employees of subcontractors, we are precluded from knowingly using unauthorized subcontracted workers as a means of circumventing the law. Any new legislation contemplated should maintain current law.

Second, it is of the utmost importance that any mandatory E-Verify program contains a safe harbor to ensure those who use the system in good faith will not be held liable by the U.S. Department of Homeland Security, or by the employer's workers, for errors in the E-Verify system. While the agencies have worked diligently to reduce error rates, the nationwide use of the system could lead to an increase in errors as more workers are run through the program. Whether the system falsely identifies an unauthorized worker as authorized, or vice versa, employers who rely in good faith on the information in the mandatory system should not be penalized for taking action based on the system's responses.

A related and significant concern is the issue of identity theft. Under current law, employers are required to use the "reasonable person test" when reviewing identity and work authorization documents. When a new hire presents documents that would to a reasonable person appear to be genuine, an employer must accept them, and the employer may not demand additional documents to test their validity.

E-Verify can only confirm work authorization based on those documents that are presented. It cannot confirm whether the person presenting those documents is in fact the same person

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represented in those documents. For this reason, the issue of identity fraud must be better addressed by Congress to ensure that a national E-Verify system is not rendered useless by a resultant upswing in the utilization of false documents. This is also another reason why it is vital to have an effective safe harbor in any legislation. Until E-Verify can detect cases of fraud, employers who use E-Verify should not be held accountable for unauthorized workers who have cleared the system because of identity theft.

Third, a national program must include provisions to ensure that the system is workable for all U.S. employers, including our nation's small businesses. Approximately 80% of NAHB's members have less than 10 employees, many of which do not have a human resources department, a legal department, or even conduct business or hiring in an office setting. This is true for the vast majority of our most important resource: our trade partners, subcontractors, and suppliers.

If E-Verify is mandated, it must work for the smallest employer, as well as the largest. It is therefore very important that telephonic access to the system be available. The reality is that many businesses around the country, despite leaps in the technology sector, do not have access to high-speed internet or the technology to access the internet from a jobsite. There must also be a better way to inform and educate small businesses about the requirements of and changes to the program beyond what is in the *Federal Register*. Small businesses, for the most part, do not have access to this document, and in fact, many have never even heard of it.

Finally, any legislation which mandates the use of E-Verify nationwide must include a strong pre-emption clause, preventing state and local governments from creating and enforcing their own versions of verification requirements for employers. If employers are going to be required to use the federal E-Verify program, they must be assured there are only one set of rules needed for compliance.

### **Conclusion**

In conclusion, my experience with E-Verify in Utah has been positive. The system has proven to be easy to use, and we generally find it to be an efficient and effective system.

I and my association support comprehensive immigration reform. Last Congress, NAHB supported the Legal Workforce Act, and we look forward to working with you on this key element of immigration reform.

While contemplation of mandatory E-Verify is a step toward addressing the illegal immigration issue, it should not be the only step. The protection and security of our nation's borders is of the utmost concern. Congress must also improve the nation's broken immigration and visa systems to find a better way for workers to legally enter the United States for employment when our economy needs them. Finally, Congress must address the concerns created by the growing illegal immigrant population and create a system whereby they can achieve legal status.

Thank you again for the opportunity to testify today.