



## California "Bans the Box"

By: Philip J. Azzara, Fisher Phillips

California employers will soon face enhanced restrictions on their right to question job applicants about their criminal conviction history and to use an applicant's criminal history as a basis for denying employment. By enacting AB 1008 – which goes into effect January 1, 2018 – California becomes the latest jurisdiction to extend employment protections to individuals with criminal histories.

AB 1008 imposes three main requirements on employers. First, employers will be prohibited from including on an employment application any question that seeks the disclosure of an applicant's conviction history. No longer will employers be able to ask in their applications "Have you ever been convicted of a misdemeanor or felony?"

Second, employers will be prohibited from inquiring into or considering the conviction history of an applicant until after the employer has made a conditional offer of employment to the applicant. This precludes employers from asking about criminal history during the interview process.

Third, employers will be required to follow a prescribed process if the applicant or a background check reveals one or more prior criminal convictions. Before an employer may deny the applicant a position on the basis of his or her conviction history, the employer must perform an "individualized assessment" of whether the applicant's conviction history has a "direct and adverse relationship" with the specific duties of the job at issue. In making this assessment, the employer must consider the nature and gravity of the offense, the time that has passed since the offense and completion of the sentence, and the nature of the job held or sought.

Should the employer make a preliminary decision that the applicant's conviction history disqualifies him or her from employment, the employer must notify the applicant of its preliminary decision in writing, must provide the applicant a copy of the conviction history report, and must advise the applicant of his or her right to respond to the preliminary decision before that



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decision becomes final. The employer must inform the applicant that he or she may submit evidence challenging the accuracy of the conviction history report that is the basis for rescinding the offer, as well as evidence of rehabilitation or any mitigating circumstances. The employer must give the applicant five business days to provide evidence of rehabilitation or mitigation, and an additional five business days to provide evidence that the conviction record is inaccurate. This process can effectively handcuff an employer from making a hiring decision for two calendar weeks.

AB 1008 imposes yet another legal burden on California employers. To comply with AB 1008, employers should first undertake an assessment of their employment applications and should remove any questions that require the applicant to disclose information about his or her criminal history. Employers should educate their hiring managers on the prohibition against questions about criminal history during the interview process. All such inquiries should be delayed until (and only if) a conditional offer of employment has been made. Should the employer obtain information about the applicant's criminal history after a conditional offer of employment has been made, the employer should undertake an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job so as to justify denying the applicant the position. Only if the employer should determine that the applicant's conviction history has such a direct and adverse relationship should the employer rescind its conditional offer of employment, and even then the employer must make sure to comply with AB 1008's notification requirements.

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# Luxe Home Sales Propel New Home to New Heights

## 2-Year Growth of 208%; New Affordability Focus

By MARK MUELLER

A slowly improving U.S. housing market has boosted most large national homebuilders' sales and bottom lines over the past few years.

Industry consolidation has also turbocharged revenue growth of many in the homebuilding sector, with a handful of Orange County-based firms the prime beneficiaries.

For the **New Home Co.**, though, recent growth has largely come from building in its own backyard, its relationship with the area's dominant real estate company, and by focusing on the luxury market.

The Aliso Viejo-based builder, which derives a big portion of sales from upscale Orange County developments, ranks No. 1 on this week's Business Journal list of fast-growing large public companies, with two-year revenue growth of nearly 208%.

The sales increase wasn't by accident, said company co-founder and Chief Executive **Larry Webb**.

"We've been laying this foundation for a while," said Webb, whose company kicked off operations in 2009 and went public in 2014 after raising \$86 million in an initial public offering.

Orange County's hot new-home market, currently home to four of the 25 best-selling master-planned communities in the country, is playing a big role in the company's recent growth.

With the November sales kickoff at two projects at Rancho Mission Viejo, New Home Co. will have projects for sale at each of OC's three largest new-home communities, along with the Irvine Ranch and Great Park Neighborhoods in Irvine.

In addition to sales of homes under its name, New Home also acts as a fee-builder for **Irvine Pacific**, the in-house building arm of Newport Beach's **Irvine Co.**, which has been among the largest homebuilders in OC by sales for several years.

"We've had significant success in Orange County," said Webb, whose company also builds in other parts of California and in the Phoenix market.

One well-heeled part of OC in particular—Newport Coast's ritzy Crystal Cove community, an Irvine Co. development—helped push New Home Co. to the No. 1 spot on this week's list.

The builder kicked off sales last year at two ultra-high-end housing communities at Crystal Cove, where homes had average prices near \$6 million.

Both communities, totaling 55 homes, sold out this year, bringing in more than \$322 million in sales for the builder over the past year.

New Home Co. reported \$769 million in sales for the 12-month period ending on June 30, compared to \$250 million in the same period two years ago.

"Crystal Cove was a great success for us, and it's all because Irvine Co. gave us a

chance," Webb said.

### M&A Hub

The company's route to the top of the list differs from strategies other area builders have recently taken to grow, via mergers and acquisitions.

One spot behind them on the large company list is Irvine-based **CalAtlantic Group Inc.**, whose two-year sales rose 161% to \$6.7 billion. One of the biggest housing industry mergers in recent years was behind much of the growth.

Last month marked the two-year anniversary of the creation of CalAtlantic, which was formed from the merger of Irvine's **Standard Pacific Corp.** with **Ryland Homes** of Westlake Village.

CalAtlantic, which maintains its West Coast headquarters in Irvine and its East Coast hub in Arlington, Va., is now the country's fourth-largest builder by home sales.

Last year's No. 1 fast-growing large public company here, Irvine-based **TRI Pointe Group Inc.**, experienced gains through a similar transaction, the 2014, \$2.8 billion cash-and-stock acquisition of the homebuilding division of timber conglomerate **Weyerhaeuser Co.** in Federal Way, Wash.

Newport Beach's **William Lyon Homes**, No. 7 on the latest list with two-year revenue growth of 47%, has been realizing the gains of its late 2014 buy of the homebuilding operations of Bellevue, Wash.-based **Polygon Northwest Co. LLC**, a \$520 million deal.

### 'Marginal' Stock Gains

New Home Co.'s stock performance hasn't matched its sales gains, particularly when viewed against other OC-based builders.

CalAtlantic's stock is up nearly 23% year-over-year for a current market value of about \$4.4 billion.

TRI Pointe, whose shares languished for the better part of two years and whose management team came under heavy rebuke from a former large shareholder early this year, has seen its stock rocket over the past six weeks, by nearly 50% from year-earlier levels to a market value of \$2.5 billion.

William Lyon's stock is up about 30% year-over-year for a market value of about \$780 million. The performance mirrors that of the **Standard & Poor's Homebuilders ETF**, a housing-stock fund that's also experienced a nearly 30% increase over the past year.

New Home's stock is up about 6% year-over-year for a market value of \$233 million last week, just before it announced third-quarter earnings. Webb describes the gains as "marginal" and not indicative of the company's true value.

Outside of New Home Co., OC's builders each have sizeable operations outside of California; Webb said he believes his company's focus here could be seen by some on Wall Street as a drawback.

"New York and Wall Street probably doesn't believe in California the way we do," he said.

A similar issue appears to face master developer **Five Point Communities**, the Aliso Viejo-based company building Great Park Neighborhoods and other big projects in the state. Its shares are about 7% below where they traded immediately after its May IPO of \$14 per share.

As in the case with Five Point, New Home wants "to be in the deepest markets in the pond," Webb said.

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Webb: 'We've had significant success in Orange County.'



Crystal Cove: luxury Irvine Co. community helped push New Home Co. to top of list

## New Home Co.

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Morningstar last week described New Home Co. in an equity report as being on the lower end of 'fairly valued,' its stock about 4% below that.

The average target stock price from analysts who cover New Home is \$14 a share, about 20% higher than the company's stock stood midweek last week.

### Affordable Options

New Home plans one change in its business strategy, a decision that comes from company management, not Wall Street, Webb said.

This year, the average sale price for homes it builds was nearly \$2 million, thanks in

large part to Crystal Cove and other pricey projects in the region. That's the highest per-home price of any publicly traded builder in the country.

Next year, the goal is to get the average price down to \$1.5 million through the introduction of more affordable projects in and around OC. Homes at Rancho Mission Viejo, for example, will be priced starting around \$400,000.

"They'll be faster to build, we can sell them quicker, and construction costs will be easier to manage," Webb said.

Of the dozen or so new projects the company will have under way by the new year, seven should have homes under \$750,000, he said.

"We'll always be in the upper end (of the market), but this should allow for more consistent growth." ■

## Bank

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headed the school's successful \$1 billion fundraising capital campaign.

Nowadays, the private wealth management firm has \$4.2 billion in assets under management, and the bank has \$4 billion in assets.

### Wealth vs. Banking

Its wealth management unit is a fee-based investment adviser that provides investment advisory and wealth management services primarily to high net-worth individuals, their families and family businesses, and other affiliated organizations.

Kavanaugh is often asked by other bankers about starting a wealth management unit. He said it's an arduous process that would require at least \$1 billion in assets and a lot of effort to find the expertise to make it work well.

"It takes years of losses to get to break-even status," he said.

The bank unit provides more than three-fourths of the company's revenue and profit, according to company presentations. It focuses on loans to individuals and small to moderate-size businesses and professional firms. About 51% of its loans are for multifamily dwellings, followed by 19% for single family homes and 15% for commercial real estate.

"We would love to increase (commercial & industrial) loans, but the reality is that is the most competitive industry around," he said. "Every bank strives to increase C&I loans. It's also the most difficult to monitor and put covenants. It's very competitive."

The company has reported a profit every year since 2012, and its operating margin has increased every year, from 18% in

2012 to 31% last year. Growth has been faster on the banking side, since its margins are higher than for wealth management, Kavanaugh said.

### Increasing Revenue

First Foundation's revenue has steadily increased every year since 2012, when it reported \$44 million. Kavanaugh tracked the most recent growth to 2015, when the company laid out a business plan to grow and issued enough stock to raise \$130.8 million.

"We've been able to deploy that capital in a positive way quicker than what we anticipated," Kavanaugh said. "Our balance sheet is \$1 billion more than we anticipated."

This year, it announced it would pay \$50.4 million in stock to acquire Community 1st Bancorp to increase its presence in the Sacramento region. The acquisition, which should close next month, will add about \$18 million in annual revenue. First Foundation acquired Desert Commercial Bank in Palm Desert in 2012, Pacific Rim Bank in Honolulu in 2015 and a branch from Pacific Western Bank in both Seal Beach and Laguna Hills in December.

Kavanaugh estimated about 95% of revenue growth is organic.

"The secret was hiring very good people who are experienced," he said. "When there is a lot of consolidation, there is an opportunity to hire some good people. Our average banker brings 20 years of experience."

The company's employee count in Orange County increased 16% to 249 from a year ago. Overall, it has 380 employees, a 22% jump. It currently has a moratorium on hiring as it plans to add employees who now work at Community 1st. It should resume hiring next year, Kavanaugh said.

"We will continue to hire people so that we can continue our growth." ■



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