

Edgar Filing: Comstock Homebuilding Companies, Inc. - Form 8-K

Comstock Homebuilding Companies, Inc.

Form 8-K

October 24, 2006

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 8-K  
CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(D) OF THE  
SECURITIES EXCHANGE ACT OF 1934  
Date of Report (Date of earliest event reported): October 24, 2006 (October 18, 2006)  
COMSTOCK HOMEBUILDING COMPANIES, INC.**

(Exact Name of Registrant as Specified in its Charter)

**DELAWARE**

**1-32375**

**20-1164345**

(State or Other  
Jurisdiction of Incorporation)

(Commission File  
Number)

(IRS Employer  
Identification No.)

**11465 SUNSET HILLS ROAD, 5<sup>TH</sup> FLOOR**

**RESTON, VIRGINIA 20910**

(Address of principal executive offices) (Zip Code)

Registrant's Telephone Number, Including Area Code: (703) 883-1700

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 2.04. Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement.**

**Item 8.01. Other Events.**

On October 18, 2006, Comstock Homebuilding Companies, Inc. (the Company) and Comstock Bellemeade, L.C., a wholly-owned subsidiary of the Company (the Subsidiary) received a letter purporting to be a default notice from Bank of America, N.A. (the Lender) under the related Deed of Trust Note (the Note), Loan Agreement (the Loan Agreement) and Guaranty Agreement (each dated as of September 28, 2005, and previously reported in connection with the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on October 4, 2005).

The Company has notified the Lender that it disputes Lender's assertion and that it intends to initiate arbitration proceedings regarding the same. The Company and Lender are in discussions regarding the dispute.

In the event the Company and Subsidiary are deemed to be in default under the Note and the Loan Agreement, the Lender will be entitled to exercise a variety of rights, including (i) accelerating the loan, (ii) terminating the loan, (iii) reducing its claim to a judgment and (iii) exercising all other legal and equitable remedies it may have. In addition, in the event the Company and Subsidiary are deemed to be in default under the Note and the Loan Agreement, the Company, directly or indirectly through additional subsidiaries could be deemed to be in default under other credit facilities, which would potentially give the Company's other lenders the right to exercise their rights with respect to approximately \$200 million of the Company's outstanding indebtedness.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

- 10.1 Loan Agreement, dated September 28, 2005, by and between Comstock Bellemeade, L.C. and Bank of America, N.A. (incorporated by reference to an exhibit to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2005).
  - 10.2 Guaranty Agreement, dated September 28, 2005, by Comstock Homebuilding Companies, Inc. in favor of Bank of America, N.A. (incorporated by reference to an exhibit to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2005).
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**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: October 24, 2006

COMSTOCK HOMEBUILDING  
COMPANIES, INC.

By: /S/ Jubal R. Thompson  
Jubal R. Thompson  
General Counsel and Secretary

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**EXHIBIT INDEX**

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10.2	Guaranty Agreement, dated September 28, 2005, by Comstock Homebuilding Companies, Inc. in favor of Bank of America, N.A. (incorporated by reference to an exhibit to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2005).