

HOUSING AUTHORITY OF

THE CITY OF SAN DIEGO

RESOLUTION NO. 1172

ADOPTED ON OCTOBER 8, 2002

A RESOLUTION TO APPROVE DELEGATION OF AUTHORITY CONCERNING AGREEMENTS AND DOCUMENTS WITH RESPECT TO THE 70 AFFORDABLE UNITS OF THE SANTALUZ HOUSING DEVELOPMENT LOCATED WITHIN THE NORTH CITY FUTURE URBANIZING AREA TO THE EXECUTIVE DIRECTOR OF THE HOUSING AUTHORITY, THE CHIEF OPERATING OFFICER OF THE HOUSING COMMISSION AND TO THEIR DESIGNEES AND TO RECOGNIZE THE USE OF INCOME AVERAGING IN DETERMINING COMPLIANCE WITH THE AFFORDABILITY RESTRICTIONS OF THE SANTALUZ PROJECT ONLY.

WHEREAS, the Santaluz housing development is located within the North City Future Urbanizing Area (“NCFUA”), and as a condition of approval of the Santaluz housing development, the developer is required to construct and rent or sell 189 affordable units [the Affordable Units] of which the Developer desires to sell seventy (70) Affordable Units and rent one hundred nineteen (119) units; and

WHEREAS, for 55 years, the Affordable Units may only be rented or sold to persons and/or households that comply with the low income requirements of the Santaluz housing development discretionary approvals, the Framework Plan, the Sub area plans, the Municipal Code and state law concerning density bonuses, and must be occupied by persons or households at low income affordability levels that comply with all applicable law; and

WHEREAS, the agreements and documents necessary to facilitate the development and sale and occupancy of the Affordable Units and to restrict the transfer, sale, financing and

occupancy of the Affordable Units to low income tenants must be reviewed, approved and executed by the Housing Authority of the City of San Diego [Housing Authority] and/or the San Diego Housing Commission [Housing Commission] and their respective counsel; and

WHEREAS, the delegation of the authority to negotiate, memorialize and execute these agreements and documents will streamline the construction and sale of the Affordable Units; and

WHEREAS, it is desirable to delegate the authority to negotiate, memorialize and execute these agreements and documents to the Executive Director of the Housing Authority [the Executive Director] and to the Chief Operating Officer of the Housing Commission [the Chief Operating Officer] and their designees; and

WHEREAS, it is desirable to allow the developer of the Affordable Units to use income averaging to meet the NCFUA affordability restriction of 65% of area median income with respect to the Affordable Units for the Santaluz project only and for the Executive Director and the Chief Operating Officer and their designees to monitor the developer's compliance with the affordability restriction; and

WHEREAS, pursuant to Section 34292 of the Health & Safety Code of the State of California and by the provisions of San Diego Municipal Code Section 98.0301, the Housing Authority has the authority, by resolution, to make this delegation to the Executive Director and the Chief Operating Officer and their designees; NOW, THEREFORE,

BE IT RESOLVED, by the Housing Authority of the City of San Diego, that:

1. The Executive Director of the Housing Authority and the Chief Operating Officer of the Housing Commission, and their designees, as shall from time to time be designated in writing, are hereby authorized to negotiate, document, memorialize, take such actions as are necessary to facilitate the construction and sale of the Affordable Units and to restrict the

transfer, sale and occupancy of the Affordable Units to low income tenants, and to execute such documents and/or agreements as are necessary to implement the same. All such actions shall be authorized without the necessity of further action by the Board of Commissioners of the San Diego Housing Commission.

2. This authorization is subject to the following conditions:
 - a. Such agreements and associated documents, shall conform to the requirements of the municipal code and state law, and such agreements shall be approved as to form and legality by the City Attorney, acting as General Counsel for the Housing Authority and the General Counsel of the Housing Commission.
 - b. No such agreement or other document shall create liability or commit to the expenditure of funds of the City of San Diego, the Housing Authority and/or the Housing Commission, unless such liability or funding commitment has been approved by the subject agency, and funds for the expenditures are included in the applicable approved budget, and except as expressly set forth in the action approving this resolution in the case of the default of first deeds of trust encumbered by the Affordability Restrictions in favor of the Housing Authority and their subsequent cure by the Housing Authority. Nothing contained herein shall require the Housing Authority or the Housing Commission to cure any such default, unless it determines that such cure is legally permissible and in the best interests of the Housing Authority and the Housing Commission to continue the affordability for the fifty-five (55) year term of the Affordability

Restrictions.

3. The Housing Authority acknowledges that the Housing Commission may allow the developer of the Affordable Units to use income averaging in order to meet the NCFUA affordability restriction of 65% of area median income with respect to the Affordable Units for the Santaluz project only, provided the Affordable Units also otherwise comply with the San Diego Municipal Code's affordability restrictions for density bonus units. Nothing contained herein shall be implied as creating a precedent for other applications for income averaging, which shall be reviewed on a case by case basis.

APPROVED: CASEY GWINN, General Counsel

By: _____
Prescilla Dugard
Deputy Counsel

PD:cdk
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Or.Dept:Hsg.Comm.
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