

RESOLUTION 76-28

RESOLUTION AUTHORIZING COMMITMENT OF  
FUNDS TO DEVELOPERS

WHEREAS, the California Housing Finance Agency staff has reviewed loan applications from certain housing sponsors and has recommended to the loan committee that certain loans be approved; and

WHEREAS, the loan committee has reviewed those loan applications and concurs in the recommendations of the staff; and

WHEREAS, based upon the recommendation of staff, the report of the loan committee and its review, the Board of Directors has determined that loan commitments be made to certain housing sponsors.

NOW, THEREFORE, BE IT ENACTED by the Board of Directors:

- (1) The Acting President of the California Housing Finance Agency is hereby authorized to transmit commitment letters, substantially in the form attached, to the following housing sponsors:

PROJECT NO.	DEV. NAME CITY	# UNITS	MORTGAGE AMOUNT
Sunset Gardens	San Diego	120	\$2,300,000

(based upon staff recommendations and loan committee approval)

- (2) The commitment letter shall specifically state that the commitment is subject to the Agency's ability to sell its bonds in an amount sufficient to fund the commitment.
- (3) The Acting President of the California Housing Finance Agency has the authority to modify the mortgage amount so stated in this resolution by an amount not to exceed 7 percent without further Board approval. All other changes, including changes in mortgage amount of more than 7 percent, must be submitted to this Board for approval.

# CALIFORNIA HOUSING FINANCE AGENCY

July 20, 1976

MO:             
GC:             
SVP:           

Mr. Augusto Angelucci  
4501 Mission Bay Drive #2A  
San Diego, California 92109

Re: Commitment Letter  
CHFA Development No. 75-125-S  
Sunset Meadows  
San Diego, California

Dear Mr. Angelucci:

Subject to the terms and conditions hereinafter set forth, the CHFA (hereinafter referred to as "Agency") hereby agrees to make a loan upon the terms hereinafter described to Augusto Angelucci (hereinafter referred to as "Borrower") for the acquisition, construction, and permanent financing of the above-identified development (hereinafter referred to as the "Development"). Said loan shall be secured by the real estate described in Request for Site Approval (CHFA-1) which is attached hereto and by this reference made a part hereof.

Performance by Agency of its obligations under this Commitment Letter is contingent upon: (i) approval by Agency and the United States Department of Housing and Urban Development (hereinafter referred to as "HUD") of an Agreement to Enter into Housing Assistance Payments Contract in connection with the Development, between Borrower and Agency, pursuant to Section 8 of the U.S. Housing Act of 1937, enacted by the Housing and Community Development Act of 1974 and the regulations pertaining thereto set forth in the Code of Federal Regulations, Title 24, Chapter VIII, Part 883, as published in the Federal Register on April 15, 1975; and (ii) the Agency's ability to obtain funds with which to make the loan by public or private sale of its underlying notes or bonds at an interest rate not exceeding the Agency's statutory limitation. If the Agreement to Enter into Housing Assistance Payments Contract is not approved by HUD, or if Agency is unable to sell its underlying notes or bonds as aforesaid, this Commitment Letter shall automatically terminate without liability to Agency and be of no further force or effect.

Subject to: (i) the terms and conditions set forth in the Zenovich-Moscone-Chacon Housing and Home Finance Act (hereinafter referred to as the "Act"); (ii) the rules, regulations and procedures nor or hereafter adopted by Agency pursuant to the Act; (iii) the terms and conditions set forth in the mortgage loan application (CHFA-3) enclosed herewith and hereinafter identified in the Commitment Letter; and (iv) all of the terms and conditions set forth herein, Agency agrees to lend to Borrower the lesser sum of two million three hundred thousand dollars (2,300,000) or approximately eighty-five percent (85%) of the total replacement Cost of the Development, as determined by Agency upon the interest rate and fees and charges set forth in the attached "Application for Mortgage Financing". The term of the loan shall be as set forth in the attached application and the loan shall be repaid in approximately equal monthly installments of principal and interest, plus fees and charges and escrow payments. The aforesaid interest rate, fees and charges and escrow payments shall be adjusted from time to time pursuant to the terms of the Promissory Note Deed of Trust and Regulatory Agreement.

1. Equity. On or before the Closing Date, Borrower shall provide equity in the amount of \$386,746.00 in cash, or equivalent value.
2. Escrow. On or before the Closing Date, Borrower shall provide Development Cost Escrow of \$115,000.00 in cash, Letter of Credit, or equivalent value.
3. Affirmative Action. Prior to the date of Closing, a conference shall be held between Borrower, Agency's Field Services Officer, and Borrower's general contractor, for the purpose of discussing the affirmative action requirements of Agency. At the time of said conference it is expected that the general contractor and any subcontractors who have been selected shall provide an executed copy of an Affirmative Action Contract with the Agency which shall specify requirements in hiring, invitations to bid and subcontract awards. Further, Borrower shall furnish to Agency at said conference detailed plans for continued compliance with said affirmative action requirements.
4. No Personal Liability. No member, officer, agent or employee of Agency shall be liable personally concerning any matters arising out of or in relation to the undertakings or obligations set forth in this Commitment Letter. Neither Borrower, nor principal of Borrower shall be personally liable for the performance or observance or any of the covenants, agreements, conditions, representations or warranties set forth in the Promissory Note or the Deed of Trust to be executed in connection herewith.

5. Documents and Other Showings. At least fifteen (15) days prior to the time Agency sets the Closing Date, Borrower shall deliver to Agency one (1) complete binder containing original copies and five (5) complete binders each of which shall contain conformed or original copies of each of the documents and other required showings hereinafter set forth in this paragraph 5, which documents shall have been executed in the manner indicated therein, all in such form and content as shall be acceptable to Agency.
- (a) Promissory Note;
  - (b) Recorded Deed of Trust securing payment of the Promissory Note constituting a valid first Deed of Trust upon the Real Estate;
  - (c) Recorded Regulatory Agreement;
  - (d) Construction Loan Agreement;
  - (e) Surety Agreement;
  - (f) Partnership Agreement and recorded certificate of limited partnership, or Articles of Incorporation, if applicable;
  - (g) Affirmative Action Contract, as approved by Agency;
  - (h) Management and Marketing Agreement, including Affirmative Fair Housing Marketing Agreement;
  - (i) Construction Loan Escrow for ALTA Mortgage Policy;
  - (j) Construction Contract;
  - (k) Opinion Letter from general contractor's counsel describing such litigation as may exist involving the general contractor;
  - (l) One Hundred Percent Payment and Performance Bonds issued by a company acceptable to Agency, in dual obligee form, naming Agency as obligee, or an irrevocable commercial letter of credit issued by a financial institution acceptable to Agency in an amount not less than ten percent (10%) of the amount of the Construction Contract for a term of not less than one and one-half (1-1/2) times the construction period set forth in Construction Contract;
  - (m) Owner-Architect Agreement;
  - (n) Opinion Letter from California licensed engineer stating that proposed structures are not located in whole or in part in a flood plain;
  - (o) Opinion Letter from Owner's counsel that the Development complies with all laws and regulations of the City of San Diego, the County of San Diego, and the State of California and that the Development can be constructed under existing zoning ordinances;
  - (p) Annexation, Subdivision and Planned Unit Development ordinances pertaining to the Development, as applicable;
  - (q) Trade Payment Breakdown prepared by Borrower's general contractor;

- (r) Prepaid policies for all risk builder's risk completed value insurance, workmen's compensation insurance, public liability and property damage insurance, rental value insurance, all in form, content and with companies satisfactory to Agency;
- (s) ALTA mortgagee's title insurance policy or commitment for such policy (issued by a company acceptable to Agency and authorized to do business in the State of California) in the amount of the mortgage loan showing fee simple title to the Development in Borrower subject only to such exceptions as Agency and counsel may approve, assuring Agency that the Deed of Trust is a valid first Deed of Trust on the Real Estate, free and clear of all encumbrances which, in the opinion of Agency, would materially affect the value or usefulness of such Real Estate for the intended use thereof;
- (t) Metes and bounds survey of the Real Estate, certified to Agency, showing all on-site appurtenances and improvements, all matters of record (which each recorded document number indicated on the survey), all public and private streets, roads, ways, alleys, and other privileges for ingress to and egress from the Development, all water courses on the Development, and showing no encroachments across boundary lines of the Real Estate or rights inconsistent with the proposed Development;
- (u) Certificate executed by Borrower stating that the building permit fee has been paid and setting forth the amount of each additional requirement permit fee for the Development and any off-site improvements, including utility fees and sewer and water connection charges;
- (v) Driveway and curb cut permits;
- (w) Evidence of the availability of all utilities and fire protection necessary to service the Development, including water, sanitary and storm sewer, electric, gas and fire protection, in the form of letters from each respective utility company and/or the municipal entities having jurisdiction;
- (x) UCC Form 1;
- (y) Agreement to Enter into Housing Assistance Payments Contract as approved by HUD;
- (z) Agreement to Enter into Pledge Agreement;
- (aa) Any other documents necessary for the construction, use, or financing of the Development as required by Agency, its counsel or HUD.

- 6. Termination. If the documents and other showings set forth in paragraph 5 hereof are not delivered to Agency within seventy-five (75) days after the date of this Letter, this Commitment shall, at the election of Agency, become null and void and of no further force or effect. If the Closing does not occur within ninety (90) days after the date of this Letter, to-wit: October 20, 1976, Agency or Borrower may rescind this Commitment by giving the other party written notice of such rescission.
- 7. Assignment. This Commitment is not assignable by Borrower in whole or in part, without the prior written approval of the President of Agency.
- 8. Plans and Specifications. The Development is to be constructed in accordance with the Plans and Specifications approved in writing by the Agency's Design Officer.
- 9. Time for Acceptance. This Commitment shall not become effective unless Borrower accepts the same by: executing the enclosed two copies of this letter in the space indicated below and on page 1 of the attached application, and returning two copies of this Commitment Letter within sufficient time so that Agency actually receives the same within fifteen (15) days after the date of this Letter.
- 10. Acknowledgement. By accepting this Commitment, Borrower acknowledges his receipt and review of each of the loan documents to be executed and delivered to Agency prior to the date of Closing, as hereinabove set forth.
- 11. Processing. The documents, exhibits and the showings required by this Commitment Letter shall be submitted to Larry Vinti, the Mortgage Officer assigned to coordinate processing of the Closing of this Development.
- 12. Survival of Obligations. The obligations of Borrower as set forth in this Commitment Letter shall survive the Closing and Borrower shall continue to cooperate with Agency and furnish any documents, exhibits or showings required herein.

Very truly yours,

California Housing Finance Agency

by \_\_\_\_\_  
Acting President

ACCEPTED BY Borrower this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_  
(Title)