

PUBLIC HEARING  
CALTRANS  
PROPOSED AFFORDABLE SALE PROGRAM REGULATION  
6:00 P.M.  
MAY 12, 2015  
LOS ANGELES CHRISTIAN PRESBYTERIAN CHURCH  
2241 NORTH EASTERN AVENUE  
LOS ANGELES, CALIFORNIA 90032

Reported by  
Kristina Kae Berg  
CSR #13772

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(THE FOLLOWING ARE COMMENTS MADE OUTSIDE THE PRESENCE  
AND HEARING OF THE PUBLIC AUDIENCE)

DEBORA PARKS: I'm wondering why there's so many  
vacant places on Pasadena Avenue that they're not  
renting out, and I'm wondering why they won't rent the  
vacant lots that are empty or vacant.

ELISA ALMEIDA: Okay. So this is a continuation of  
what I was saying that I was not allowed to continue,  
even though there were not that many speakers. Put  
that in there. I feel, in continuation, I feel you,  
meaning Caltrans, should stop raising rents every six  
months and to the seniors once a year, forcing tenants  
to leave. I wish Caltrans and Metro would take a walk  
around my historical street with several bungalows and  
homes, and look at conditions of homes and then

1 understand why I feel this way. There are sinkholes  
2 in backyards and black mold in most houses, bad  
3 foundations, and the list goes on. Again, I say,  
4 "Take the words 'fair market value' out." And all my  
5 neighbors, we all want more time than the 120-day  
6 period to make our written comments. P.S., your  
7 outreach is terrible.

8  
9 CHRISTOPHER SUTTON: So I want to expand on my comment  
10 regarding the 120 days. I'm going to list the  
11 properties that Caltrans previously sold between 1996  
12 and 2006 by address and describe how long each owner  
13 took to respond to the offer to sell, and in every  
14 case it was longer than 120 days. It's going to take  
15 a little while, but I'm going to go through this  
16 parcel by parcel. 1100 Beach in South Pasadena, which  
17 was Caltrans parcel No. 68934. It took the owner,  
18 Mr. Clark, 13 months to respond to the offer.

19 The next parcel, 1106 Pine in South Pasadena,  
20 Caltrans parcel No. 68300. It took the purchaser,  
21 which was Esperanza Charities, approximately 18 months  
22 to respond to the offer.

23 The next parcel, 1732 Gillette Crescent in  
24 South Pasadena, Caltrans parcel No. 68260. It took  
25 Mrs. Skogstrom approximately 33 months to respond to

1 the offer.

2 The next parcel at 1119 Meridian in South  
3 Pasadena, Caltrans parcel No. 62914. It took  
4 Mrs. Roberto approximately 16 months to respond to the  
5 offer.

6 The next parcel at 1102 Foothill, Caltrans  
7 parcel No. 68533. It took the Borovay family  
8 approximately 23 months to respond to the offer.

9 The next parcel at 512 Meridian, South  
10 Pasadena, Caltrans parcel No. 47416. It took  
11 approximately seven months for the Garmshausen family  
12 to respond to the offer.

13 The next parcel, 1023 Buena Vista, which I  
14 was directly involved in as the lawyer for Eve  
15 Madigan, Caltrans parcel No. 68529. It took  
16 Ms. Madigan approximately 30 months to respond to the  
17 offer.

18 The next parcel at 1109 Buena Vista in South  
19 Pasadena. It was bought by Mr. and Mrs. Keith, which  
20 I was also involved with. Mr. Keith is a banker and  
21 has access to bank preferences for financing, yet it  
22 took Mr. and Mrs. Keith five months to qualify and  
23 respond to the offer. That's the shortest time. So  
24 even when a banker was buying one of the Caltrans  
25 properties, he could not respond to the offer within

1 the four months they're now proposing, and that's the  
2 shortest one of all of these.

3 The next parcel at 1133 Buena Vista -- oh, by  
4 the way, the parcel number for that last one with the  
5 Keiths was, 68537. The next one is the 1133 Buena  
6 Vista, South Pasadena. Daniel Sullivan was the buyer.  
7 Caltrans parcel No. 67001. It took the Sullivans  
8 15 months to respond to the offer.

9 The next one is at 1120 Buena Vista, Caltrans  
10 parcel No. 61156. It took the Clausen family  
11 17 months to respond to the offer.

12 The next one is 1124 Buena Vista, Caltrans  
13 parcel No. 68102, by the Serrano family. It took them  
14 13 months to respond to the Caltrans offer.

15 The next to one is 1033 Highland, and it's  
16 Caltrans parcel No. 45023. I was also directly  
17 involved in that sale, and Mrs. Muwwakkil, it took her  
18 18 months to respond to the offer. And she was being  
19 helped in getting financing by her neighbors, who I  
20 believe were cosigning on the loan, neighbors who were  
21 not Caltrans tenants, took 18 months.

22 The next one is at 408 Fairview, and it's  
23 Caltrans parcel No. 49684. It took Laurie Harris and  
24 Dean Magoulias 36 months to respond to the Caltrans  
25 offer.

1           The next one is at 320 Fairview, Caltrans  
2 parcel No. 68590. Mr. Moss, it took him 23 months to  
3 respond to the offer.

4           The next parcel, 329 Freemont, Caltrans  
5 parcel No. 47408. It took Ms. Ohlsson 14 months to  
6 respond to the offer.

7           The next parcel, 315 Freemont, Caltrans  
8 parcel No. 67152. It took the Ryans and Runnels  
9 12 months to respond to the offer.

10           The next parcel, 311 Freemont, Caltrans  
11 parcel No. 68603. It took the Morgan family  
12 60 months, 5 years, to respond to the offer.

13           The next one is 1127 Colombia in South  
14 Pasadena, Caltrans parcel No. 67902. It took  
15 Mr. Kaplan 19 months to respond to the Caltrans offer.

16           The next one is 1220 Pasadena Avenue in  
17 Pasadena, Caltrans parcel No. 48165. It took Edward  
18 and Nancy Kleir 84 months, 7 years, to respond to the  
19 Caltrans offer.

20           Next door to them at 1210 Pasadena Avenue in  
21 Pasadena, Caltrans parcel No. 48167. Mr. and  
22 Mrs. Edwards and Bischoff -- excuse me. Two different  
23 last names. It took them 16 months to respond to the  
24 Caltrans offer.

25           1180 Pasadena Avenue, which is Caltrans

1 parcel No. 48169. It took Mrs. Treuscorff 32 months  
2 to respond to the Caltrans offer.

3 The next one is at 170 State Street in  
4 Pasadena, Caltrans No. 48186. It took Mr. And  
5 Mrs. Robertson 16 months to respond to the Caltrans  
6 offer.

7 And then there are approximately 15  
8 additional properties, and because they were sold  
9 outside the offering process that had originally  
10 commenced in 1996, it's hard to tell when they were  
11 offered. But based upon my involvement with some of  
12 them, those tended to average between nine months and  
13 18 months in responding to the Caltrans offer. And in  
14 fact, the property at 170 Arlington Drive in Pasadena,  
15 by Mr. and Mrs. Burrero, that property was up in the  
16 air for an extremely long time, and it was only the  
17 intervention of former state senator Jack Scott, that  
18 induced Caltrans to finally close the escrow. But it  
19 took them a long time to respond to the offer.

20 And the one at 2002 Berkshire in South  
21 Pasadena, that was one that was sold through the city  
22 of South Pasadena to the eventual buyer, and it took  
23 the city of South Pasadena, who had ready money to  
24 spend, over 18 months to respond to this Caltrans  
25 offer to purchase. And then South Pasadena

1 subsequently resold it to Mr. Jesus Amaya.

2 So the ones on this secondary list are  
3 outside of the surplus property declaration that  
4 Caltrans made in 1995. And it's unclear whether they  
5 were ever declared surplus, but they were, in fact,  
6 sold, so that the normal procedures were not followed.  
7 And let me just put those addresses on the record.  
8 I've mentioned two of those, but there were 15  
9 properties that were sold that were not on the  
10 original list in the 1990s, and may have been on a  
11 separate list, but there does not appear a separate  
12 list.

13 Those 15 properties are: 1117 Colombia Lane,  
14 South Pasadena. And I don't have the corresponding  
15 Caltrans numbers for these. 1125 Avoca Avenue,  
16 Pasadena. 631 Meridian Avenue, South Pasadena.  
17 1912 Meridian Avenue, South Pasadena. 1106 Foothill  
18 Street, South Pasadena. 1020 Foothill Street, South  
19 Pasadena. 1038 Foothill Street, South Pasadena.  
20 2002 Berkshire, South Pasadena. 325 Fremont, South  
21 Pasadena. 319 Fremont, South Pasadena.  
22 415 Fremont, South Pasadena. 330 Fairview -- which  
23 in some documents was listed as 328 Fairview, South  
24 Pasadena. 411 Fremont, South Pasadena. And the  
25 final one is 170 Arlington Drive, Pasadena.

1           The reason why I've listed these is to show  
2           that the proposed 120-day response period in proposed  
3           regulations 1480, 1481, and 1484, are irrational and  
4           dramatically unfair. Because if that regulation had  
5           been in place during the 1996 to 2006 sales program,  
6           none of the purchasers would have been able to comply  
7           with the 120-day response period. It is simply an  
8           arbitrary, capricious, and irrational time period.  
9           Banks and other lenders are extremely wary of property  
10          owned by the Department of Transportation. The  
11          banking industry has had terrible results in loaning  
12          to people who purchase Caltrans property.

13                 One of the properties I mentioned earlier,  
14          1033 Highland, in South Pasadena, Caltrans parcel  
15          No. 45023, was initially sold to Kadena Muwakkil in  
16          January 1998. Attached to the sale was a Caltrans  
17          covenant prohibiting Ms. Muwakkil from renting,  
18          reselling, or remortgaging the property. Despite that  
19          covenant, Ms. Muwakkil sold the backyard to her  
20          neighbor to the south for a large amount of money, and  
21          the fence was moved. She also refinanced the property  
22          and got a new loan on the property. She then kept the  
23          money that she had received in selling the backyard  
24          and in refinancing the property, and returned to her  
25          native country in Africa with probably over a quarter

1 of a million dollars.

2 The property went into foreclosure because  
3 she wasn't paying on the loan, and the purchaser at  
4 the foreclosure sale attempted to then put the house  
5 on the market. Because Caltrans does not monitor  
6 their own covenants, Caltrans was completely unaware  
7 that Mrs. Muwwakkil had sold the backyard, had  
8 refinanced the property, and had left the country.  
9 Only later when the property came up for sale by the  
10 purchaser when the bank foreclosed and sold it, did  
11 Caltrans suddenly assert that it had a covenant and  
12 right to repurchase the property.

13 Strangely, foolishly, and inexplicably,  
14 Caltrans threatened to sue the man who had purchased  
15 the property at a foreclosure sale. Mr. Tripodese,  
16 T-R-I-P-O-D-E-S-E. For some reason, there are a  
17 number of people in South Pasadena named Tripodese,  
18 it's a Greek name. So even though it sounds odd,  
19 there's a number of people with that name. Caltrans  
20 then did not sue Mr. Tripodese, but purchased the  
21 property back from him for \$222,000 and put it back  
22 into their portfolio of unsold houses, an amazing  
23 result that made no sense, but that's what they did.  
24 That sale for Mr. Tripodese back to Caltrans occurred  
25 in November 2002, and then Caltrans held the property

1 for three more years. And Caltrans denied that they  
2 owned it.

3 Later in 2005, when one of my clients was  
4 settling the lawsuit against Caltrans for the property  
5 at 1200 Pasadena Avenue, Caltrans agreed to sell him  
6 the property at 1033 Highland instead. And because of  
7 the history on the property, Mr. Nicholson, the buyer,  
8 could not obtain bank financing. But he was able to  
9 buy the property by getting a loan from his father,  
10 who then held the paper on the property and still  
11 does. So Mr. Nicholson closed escrow on November 30,  
12 2005.

13 Later, in 2010, there was an accidental fire  
14 in that property, and Mr. Nicholson -- the fire  
15 department came and put a hole in the roof and put out  
16 the fire. There was a short in the kitchen or  
17 something wasn't there, but he was my client I heard  
18 about it. He then tendered the fire report and the  
19 damages to Farmers Insurance, his insurer, who then  
20 sought to have contractors take estimates and repair  
21 the property. But when Farmers found the Caltrans  
22 covenant in the history of the title, they sent a  
23 notice to Caltrans that they were going to release  
24 this money and pay for the repairs. That was in  
25 September of 2010.

1           Caltrans objected to the release of the  
2 insurance money to pay for the repairs. Mr. Nicholson  
3 had to contact the director of Caltrans in Sacramento,  
4 his elected officials, and have the local Caltrans  
5 staff overrule in asserting that the Caltrans covenant  
6 prevented the insurance company from paying for the  
7 repairs to the property, which were the security on  
8 the loan from his father.

9           That's an example of why banks and other  
10 financial institutions do not want to lend money on  
11 Caltrans property, because Caltrans is irrational in  
12 how they enforce the covenants they record on these  
13 properties, and banks are not able to count on being  
14 paid by the borrower. So the 120-day time period that  
15 Caltrans has imposed on potential purchasers means  
16 that it's virtually impossible to get bank financing,  
17 because it will take a lot longer than 120 days to  
18 convince banks or other lenders to provide loans on  
19 these houses.

20           The 120-day rule has the same effect as the  
21 old 30-year covenant rule that Caltrans proposed in  
22 2014, which we objected to and Caltrans has now  
23 withdrawn in favor of a five-year reducing silent  
24 second rule, which we agree with. But the 120-day  
25 rule serves no rational purpose to facilitate the sale

1 of those properties. It merely relieves Caltrans of  
2 the burden or the work in processing these papers. So  
3 what it means is that Caltrans' internal desire to  
4 have 120-day rule is overriding the goal of the  
5 legislation, the Roberti Bill, which is Government  
6 Code 54235, 54238.7, which is what these hearings are  
7 all about.

8 So the 120-day response period is in effect a  
9 complete ban on people being able to buy these  
10 properties. And that time period simply should be  
11 enlarged dramatically to one year, and there needs to  
12 be a provision for extending the deadline for people  
13 who are having to explain the peculiarities of  
14 Caltrans ownership and covenants to their financial  
15 institutions. The 120-day rule serves no purpose  
16 under the law. It serves no purpose to facilitate the  
17 affordable housing goals of the law. It serves no  
18 purpose to facilitate the neighborhood preservation  
19 purposes of the law.

20 The result of the 120-day rule will be that  
21 100 percent of the existing tenants will be  
22 disqualified from buying the properties where they  
23 reside. The properties will end up being sold to  
24 either public or other nonprofit entities, and the  
25 prospect that the existing tenants will be evicted and

1     lose their homes so that other people can come into  
2     those homes, because the city or the nonprofit  
3     entities will be able to obtain financing better than  
4     individual tenants can. And so the 120-day rule is  
5     completely unfair and wrong.

6             Now, I also want to extend on my comments  
7     regarding proposed regulations 1476D, and 1476L, which  
8     is the two definitions of area median income and fair  
9     market value. Caltrans is using a countywide base to  
10    define area median income, and that results in the  
11    median income being about \$46,000 or \$47,000. But the  
12    actual median income in South Pasadena is actually  
13    \$96,523, if you base it on census data for that  
14    particular city, which is ZIP code 91030. The ZIP  
15    code to the north, which is Pasadena ZIP code 91105,  
16    has an even higher average median income.

17            To the south of South Pasadena, in the El  
18    Sereno area, which is Los Angeles 90032, has a lower  
19    income than the \$46,000 that is the county average.  
20    So that by applying a countywide income standard, you  
21    are both disqualifying people from purchasing in the  
22    first three categories -- so the people in Pasadena  
23    and South Pasadena will be disqualified from  
24    participating in the first three categories, because  
25    most, if not all, of them will be above 120 percent of

1 the lower median income using the statewide figure,  
2 and that number for a family of one would be \$67,000.

3 So that most of the people in the houses in  
4 Pasadena and South Pasadena earn more than \$67,000 a  
5 year, or as adjusted for family size. Whereas in El  
6 Sereno, 90032, those people own or have income that is  
7 much less than the countywide average, and, therefore,  
8 their entitlement to benefit under the first two  
9 sections, particularly the low income section, will be  
10 restricted because the income is artificially higher  
11 than their income.

12 In addition, Caltrans then uses a localized  
13 formula for fair market value under proposed  
14 regulation 1476L. And that is not set forth in the  
15 regulation, but that is in the Caltrans procedures,  
16 elsewhere in the right-of-way manual for determining  
17 fair market value. Those procedures were never  
18 circulated in compliance with the Administrative  
19 Procedures Act, since Caltrans decided to stop  
20 following the Administrative Procedures Act in 1983 at  
21 the beginning of the Deukmejian administration.

22 The failure of Caltrans to follow the  
23 Administrative Procedures Act in the way in which they  
24 have adopted and amended their right-of-way manual,  
25 was found to violate the Administrative Procedures Act

1 in a case that's cited in the Caltrans' own regulatory  
2 announcement in 2007, which is: City of South  
3 Pasadena versus Department of Transportation,  
4 involving the sale of approximately ten houses to an  
5 entity called Beacon Housing Services. And that sale  
6 was enjoined and set aside by the superior court. And  
7 Caltrans elected not to appeal that judgment, and that  
8 became final.

9 Caltrans' failure to have their fair market  
10 value regulations approved pursuant to the  
11 Administrative Procedures Act, even though they are  
12 incorporated by reference into those proposed  
13 affordable sales program regulations, is a violation  
14 of the Administrative Procedures Act since you are  
15 using underground, unapproved, uncirculated  
16 regulations to determine what the value of the  
17 properties are that are being sold through this  
18 program.

19 In addition, I want to expand upon my comment  
20 on the phasing of the sales. Caltrans has announced  
21 the properties will be sold in three phases, and they  
22 have created a handout in English and Spanish that  
23 says what those phases are. And yet those phases are  
24 not described anywhere in the proposed affordable  
25 sales program regulations.

1           The failure to describe how the phasing was  
2           determined, which properties were in which phase, and  
3           what criteria were used, is a violation of the  
4           Administrative Procedures Act, and it really is an  
5           underground regulation in violation of the city of  
6           South Pasadena judgment against Caltrans. So these  
7           affordable sales program regulations need to be  
8           expanded to include, not just the phasing where they  
9           have Phase 1, Phase 2, Phase 3, but they need to be  
10          expanded to include how fair market value is  
11          determined as between a local focus on fair market  
12          value or a countywide focus on fair market value.

13           The regulations need to be extended to  
14          clarify whether they are using a countywide focus on  
15          average or area median income, or they are going to  
16          use a ZIP code, core census tract, or other localized  
17          determination of area median income. The  
18          inconsistency between locally focused for these two  
19          factors has the effect of excluding, if not a  
20          majority, all of the current tenants from being able  
21          to purchase their properties, because it has the  
22          effect of lowering the threshold for area median  
23          income for Pasadena and South Pasadena and raising the  
24          threshold for area median income for El Sereno.

25           And in both cases, it fails to reflect the

1 actual community values and actual community income.  
2 By using a localized fair market value determination  
3 of property value, Caltrans artificially increases the  
4 value of the properties to be offered under the  
5 alternative in the recent bill by state Senator  
6 Carol Liu, and in the alternatives in the Roberti Bill  
7 regarding fair market value. So on the one hand, by  
8 artificially making income defined countywide and not  
9 localized, you exclude people from the process. And  
10 then by artificially localizing fair market value  
11 under the properties under the alternative purchase  
12 process, you also exclude people from the process.

13 Combine that with the 120-day response period  
14 required to respond to an offer to purchase, it means  
15 that virtually no one will be able to purchase these  
16 properties, and that Caltrans has written regulations  
17 to serve its own internal bureaucratic biases and not  
18 to serve the goals of the statute 54235 through  
19 54238.7 of the government code, and are violating the  
20 Administrative Procedures Act by not including a  
21 formula related to the fair market value and not  
22 including the phasing of how properties are selected  
23 to be in each of the three phases. So I think I'm  
24 done.

25

1 MARIA LUISA ALMANZA: I don't want the homes at  
2 Maycrest to be sold. If the city obtains them, then  
3 they will be abandoned. I don't want to live amongst  
4 the abandoned homes. Also, a lot of people that live  
5 there have been living there for a long time, and my  
6 heart hurts that these people are struggling to find a  
7 new home.

8  
9 LINDA KRAUSEN: And I would like to speak to  
10 Section 147, Conditions of Conditional Offer Prior to  
11 Sale. Section C refers to a reasonable price, which  
12 is what housing related private entity can buy the  
13 house for if it's not for Section C1 use. And this is  
14 Section C2. And I urge changing the wording that says  
15 that, "Affordable rents and affordable prices as  
16 established by the entity." And in this section, they  
17 are talking about "the entity then can resell the  
18 homes to tenants" -- "to the tenants who were the  
19 first in line." But now instead of affordable rates,  
20 they're saying that the prices are established by the  
21 entity. And to say that "established by the  
22 California Department of Housing," to say at  
23 "affordable rates" not at "fair market value."

24 The code section says that "When these  
25 private housing entities decide to sell the homes that

1 they have bought at a reasonable price to the tenants,  
2 who have first option to buy, they will sell them the  
3 homes at the fair market value." I'm saying we should  
4 change the wording from "fair market value" to  
5 "'affordable pricing' as established by California  
6 Department of Housing and Community Development for  
7 persons of low and moderate income for sales made by  
8 the department." In other words, take out "fair  
9 market value" on the flipping of the homes, to  
10 "affordable rates" so that we avoid these private  
11 entities flipping the homes from a reasonable price  
12 for which they bargained for into fair market value.

13 And here is the reason it affects me:

14 Because I may not qualify if the sales are held within  
15 the next year for the below 150 of the area median  
16 income, if the area median income in Los Angeles  
17 County, due to the fact that I am working. However,  
18 if I can then opt to rent from this private housing  
19 entity, in that next year, I will be retired and my  
20 income will be less than half. I will therefore be in  
21 the affordable category.

22 However, if I want to buy the home, I have  
23 the first right to buy it. But I will no longer be  
24 able to pay a fair market value. Therefore, I will be  
25 gypped again, and not be able to buy the home even

1 from the private or public housing entity, because  
2 they're going to charge fair market value, which for  
3 South Pasadena would be impossible for me to buy. So  
4 therefore, I would not be able to buy my home under  
5 the current regulations. So that's why I urge  
6 changing the language in that section, Section C, 2A.

7 And the next thing I would like to talk about  
8 is that Section 1476, and this is concerning the  
9 option to change the area of area median income. The  
10 code refers to -- Section 1476 refers us in Section A  
11 to housing code Section 50052.5, in which costs are  
12 discussed in terms of percentages of gross income.  
13 And then it leads us to Section C, in which it says  
14 that "The department shall, by regulation, adopt  
15 criteria defining and providing for the determination  
16 of gross income and housing costs." And then it  
17 continues, and then it says, "These regulations may  
18 provide alternative criteria to be consistent with  
19 federally assisted housing." And in these sections,  
20 it continues, and it says that, "The department has  
21 the option to redefine the areas that are used for  
22 median family household income to more locally, to  
23 allow for the inclusion of more people in the  
24 affordable range who would otherwise be excluded by  
25 the larger county framework for median income."

1           And, therefore, I say that in the regulations  
2           itself, as we follow through as Caltrans has put in  
3           the definitions, we follow from one regulation  
4           referring to another to another to another, it shows  
5           that there is ample precedent for changing the area  
6           that is used for the area median income. It even says  
7           that the department may do this, and in certain  
8           sections it shall take into account the criteria to  
9           include more people in the possibility of being in  
10          affordable rentals or sales. And that's my statement.

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(Whereas at 8:13 p.m. the public hearing was

14

concluded)

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1 STATE OF CALIFORNIA )  
 2 )  
 3 COUNTY OF LOS ANGELES )  
 4 )  
 5 )

6 I, Kristina Kae Berg, a Certified Shorthand  
 7 Reporter, do hereby certify:

8 That said proceedings were taken before me at  
 9 the time and place therein set forth and were taken  
 10 down by me in shorthand and thereafter transcribed  
 11 into typewriting under my direction and supervision;

12 I further certify that I am neither counsel  
 13 for, nor related to, any party to said proceedings,  
 14 not in anywise interested in the outcome thereof.

15 In witness whereof, I have hereunto  
 16 subscribed my name.

17  
 18 Dated: May 18, 2015  
 19

20 \_\_\_\_\_  
 21 Kristina Kae Berg  
 22 CSR No. 13772  
 23  
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