

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT
NO. SJC-13893**

ARCANGELO CELLA, TERESA DEL SIGNORE, KATHERINE HOREY, and
SUSAN M. RENFREW,

Plaintiffs-Appellants

v.

ANDREA J. CAMPBELL, in her official capacity as the Attorney General of
the Commonwealth of Massachusetts, and WILLIAM F. GALVIN, in his
official capacity as Secretary of the Commonwealth of Massachusetts,

Defendants-Appellees.

**On Reservation and Report from the
Supreme Judicial Court for Suffolk County**

**BRIEF OF AMICI CURIAE
CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
ASSOCIATED INDUSTRIES OF MASSACHUSETTS, AND NATIONAL
ASSOCIATION OF REALTORS® IN SUPPORT OF PLAINTIFFS-
APPELLANTS**

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April 16, 2026

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Judicial Court Rule 1:21, *amici* state the following:

The Chamber of Commerce of the United States of America states that it is a non-profit, tax-exempt organization incorporated in the District of Columbia. The Chamber has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

Associated Industries of Massachusetts states that it is a 26 U.S.C. § 501(c)(6) nonprofit association incorporated in Massachusetts and headquartered in Boston. AIM is governed by a Board of Directors, the members of which serve solely in their personal capacities. AIM does not issue stock or any other form of securities and does not have any parent corporation.

The National Association of REALTORS® is a non-profit, tax-exempt organization incorporated in Illinois. It has no parent corporation, and no publicly held company has 10% or greater ownership in it.

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PREPARATION OF AMICUS BRIEF

Pursuant to Appellate Rule 17(c)(5), *amici curiae* and their counsel declare that: (a) no party or party's counsel authored this brief in whole or in part; (b) no party or party's counsel contributed money to fund preparing or submitting the brief; (c) no entity or person, aside from *amici curiae*, their members, or their counsel, made any monetary contribution intended to fund the preparation or submission of this brief; and (d) counsel has not represented any party in this case or in proceedings involving similar issues, or any party in a case or legal transaction at issue in the present appeal.

INTERESTS OF AMICI CURIAE

The Chamber of Commerce of the United States of America (“Chamber”) is the world’s largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation’s business community.

Associated Industries of Massachusetts (“AIM”) is a nonprofit association located in Boston that was founded more than one hundred years ago. With over 3,400 employer members doing business in Massachusetts, it is the largest business association in the Commonwealth. AIM’s mission is to promote the well-being of its members and their employees and the prosperity of the Commonwealth by improving the economic climate of Massachusetts, proactively advocating for fair and equitable public policy, and providing relevant and reliable information and excellent services. A key function of AIM is to represent the interest of the members in all forums, including both state and federal courts. AIM regularly files *amicus curiae* briefs in cases, like this one, that raise issues of critical concern to

the Commonwealth's economic competitiveness. AIM also frequently files *amicus* briefs on issues, like rent control, that are hostile to the state's business climate.

The National Association of REALTORS® (“NAR”) is the nation's largest trade association, representing 1.4 million members involved in all aspects of the residential and commercial real estate industries. NAR's members include residential and commercial brokers, salespeople, property managers, appraisers, counselors, and other real estate professionals. For over a century, NAR has advocated to protect the rights of property owners and promote policies that build strong communities, protect private property interests, and promote a vibrant business environment.

SUMMARY OF ARGUMENT

Petition 25-21 proposes to enact a rigid rent-control scheme that would set a “limit on any annual rent increase for a covered dwelling unit in the commonwealth.” Petition, § 3 (Plaintiffs-Appellants’ R.A. 27; Add. 58). The proposed law would provide that rent increases “shall not exceed the annual increase in Consumer Price Index or 5%, whichever is lower, in any 12-month period,” and would give landlords no mechanism to seek individualized relief. *Id.* That rent-control scheme would be a monumental change to Massachusetts law, as Commonwealth statutes and this Court’s precedent have long recognized rental property owners’ rights to a fair return on their investments. *See Marshal House, Inc. v. Rent Control Bd. of Brookline*, 358 Mass. 686, 703 (1971); *see also* G.L. c. 40P.

There is significant consensus among economists that rent-control policies like the proposal in Petition 25-21 lead to harmful economic consequences for property owners and the broader housing market. Such caps decrease the rental return from and the overall value of landlords’ properties, reduce mobility for tenants, disincentivize maintenance in apartment units, and ultimately lead to a reduction in the volume of available rental housing. In doing so, they seriously harm

property owners in a variety of different ways, draining value from their properties with respect to both rentals and sales.

Those harms are directly relevant to analyzing the challengers' claim that the proposed rent-control measure amounts to an unlawful taking of property without just compensation. Under state and federal precedent, this Court engages in "careful examination and weighing of all the relevant circumstances" to determine whether a regulatory action constitutes an impermissible taking of private property. *FBT Everett Realty, LLC v. Massachusetts Gaming Comm'n*, 489 Mass. 702, 708 (2022) (citing *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Plan. Agency*, 535 U.S. 302, 322 (2002)). The Court also must consider whether the rent-control framework improperly confiscates private property by preventing property owners from obtaining a fair return. *Marshal House*, 358 Mass. at 703. The proposed law's substantial burdens on property owners, including overly harsh restrictions on landlords' ability to collect a reasonable return, make clear that the law would "go[] too far" in interfering with property rights. *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415-16 (1922); *see also, e.g., Block v. Hirsh*, 256 U.S. 135, 157 (1921); *Hutton Park Gardens v. Town Council of Town of W. Orange*, 68 N.J. 543, 569

(1975). Accordingly, the Court should declare Petition 25-21 unlawful and enjoin the Secretary from placing the Petition on the November 2026 ballot.

ARGUMENT

I. RENT CONTROL INFLECTS SIGNIFICANT ECONOMIC HARMS THAT ARE HIGHLY RELEVANT TO THE TAKINGS ANALYSIS

A. Government price controls have distorting and negative effects

At the heart of the American economic model is free choice for consumers of goods or services and free competition among producers and service providers for consumers' business. The meeting point for those economic participants is price, "the central nervous system of the economy." *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 224 n.59 (1940).

In a competitive market, the market price conveys crucial information about the intersection of supply and demand. The market price represents the price that those receiving a good or service (*e.g.*, renters) are willing to pay and at which property owners or producers (*e.g.*, landlords) are willing to deal. When market participants can select freely among alternative offers, "all elements of a bargain," including not only price but also the quality of a product or service, are "favorably affected." *Nat'l Soc'y of Pro. Eng'rs v. United States*, 435 U.S. 679, 695 (1978).

Government price controls distort that process, with predictably negative results for all involved. As one commentator has observed, “[t]wo words rarely appear in the same sentence: economists and consensus. But on the issue of price controls, they belong together,” because “[t]he famously divided profession agrees that government-imposed price caps generally don’t work and, in fact, only make matters worse.” Jeffrey H. Birnbaum, *Keep Prices Out of Control*, *Fortune*, June 25, 2001 at 36; *see also, e.g.*, Thomas Sowell, *Basic Economics: A Citizen’s Guide to the Economy* 29 (2000) (economists are in “virtually unanimous agreement that declines in product quantity and quality are the usual effects of price controls”).

When the government caps a price below the market price, various negative consequences ensue. Persons or entities who provide the thing that is price-capped see their revenues and/or the value of their property decrease significantly. Although they may attempt to recoup some of that loss through imposing charges that the price cap does not regulate, their attempt may prove unsuccessful if the price cap captures most of the things that those persons or entities can offer to consumers. The market provides less of the price-capped good or service, thereby creating shortages. And there is less incentive to invest in improvements and quality control. Thus, regardless of how well-intentioned price controls may be, they virtually always have

harmful, counterproductive effects. *See, e.g.*, Hugh Rockoff, *Price Controls*, Library of Economics and Liberty, <https://perma.cc/VSV3-7RV9>; Alec Stapp, *Price Controls Won't Fix What's Ailing the Restaurant Industry*, Progressive Policy Institute 7-8 (Feb. 2021).

That conclusion is borne out by empirical studies evaluating the consequences of price-control measures imposed on various sectors of the economy. *See, e.g.*, Robert T. Deacon & Jon Sonstelie, *The Welfare Costs of Rationing by Waiting*, 27 *Econ. Inquiry* 179, 179 (1989) (studying price controls on gasoline in the 1970s); Justin-Damien Gu nette, *Price Controls: Good Intentions, Bad Outcomes*, World Bank Group Prospect Group 3 (April 2020) (discussing studies of price controls across different sectors and evidence showing that “price controls often undermine growth and development”). Empirical evidence therefore confirms what economic theory hypothesizes: Far from serving the general welfare, price controls ultimately are harmful and are not rationally imposed in competitive markets. *See generally Standard Oil Co. v. FTC*, 340 U.S. 231, 248 (1951) (“The heart of our national economic policy long has been faith in the value of competition.”).

B. The rent-control measure here would have just such negative effects and would harm property owners and tenants

The economic consensus described above is fully applicable to rent control, a form of price control that harms all rental-market participants—property owners and tenants alike. Those harms are serious, depriving property owners of a significant portion of the value of their rental properties. And the harms are far from theoretical. They have been validated in empirical studies looking at myriad examples of state or local rent-control measures. *See, e.g.,* Brian Asquith, *Minneapolis & St. Paul: A Tale of Twin Cities*, W.E. Upjohn Institute for Employment Research (Nov. 2022); Walter Block, Preface to *Rent Control: Myths & Realities* xiv (Fraser Institute) (1981) (“[e]conomists who have researched [the] effects” of price controls for rent “are virtually unanimous” that such controls are bad policy).

1. Rent control harms landlords by stripping them of revenue and decreasing property values

Imposing a cap on the maximum rents that property owners may charge tenants inflicts significant direct economic harm on those owners, who may depend on the money they obtain through rentals for their livelihoods and may have a significant percentage of their overall net worth tied up in rental properties. The reasons for that effect are apparent. When a cap exists, property owners realize less

income from their rental properties than they otherwise would have. And their property values go down as prospective buyers recognize that they, too, will be limited in the amount of money that they can realize by renting out the relevant property. That is particularly so as to properties specifically adapted for use as rentals—for instance, properties that have been carved up into a number of separate apartments with separate facilities—and that cannot be converted to other uses without significant expense. *See Hutton Park Gardens*, 68 N.J. at 569 n.9 (emphasizing that “supposed freedom of landlords to abandon the business is largely illusory” because converting a rental unit to a new use is “ordinarily economically prohibitive”); *see also* Anthony Downs, *Residential Rent Controls: An Evaluation* 23 (1988) (“*Downs*”) (discussing how rent control operates as a “capital tax” on property owners).

Empirical studies establish beyond any doubt that rent control inflicts those serious harms on property owners. For instance, economists at New York University recently analyzed data from the years immediately following the enactment of rent-stabilization legislation in New York City in 2019. They concluded that the “sales price per square foot of all properties fell” and that sales fell “the most for properties in which 26 to 75 percent of the apartments were rent-stabilized.” NYU Furman

Center, Policy Report, *Housing Stability and Tenant Protection Act: An Initial Analysis of Short-Term Trends 2* (July 2021); see also Will Parker & Konrad Putzier, *Buyers Return After Rent-Control Slams New York Apartment Values*, Wall St. J., Feb. 4, 2020 (reporting on 25% decline in value of New York City apartment buildings in months following passage of rent-control legislation), <https://tinyurl.com/2jp9fthe>.

That conclusion is not limited to a specific geographic location or time period—and it is fully applicable in the Commonwealth. In a study of property values around the time when Cambridge, Massachusetts eliminated rent-control policies in the 1990s, researchers at the Massachusetts Institute of Technology found “compelling evidence that the elimination of rent control raised the market values” of not only “decontrolled” properties but also “never-controlled properties.” David H. Autor, Christopher J. Palmer, & Parag A. Pathak, *Housing Market Spillovers: Evidence from the End of Rent Control in Cambridge, Massachusetts*, 122(3) *Journal of Political Economy* 661, 667 (2014). That strongly indicates that rent control in Cambridge was responsible for a decrease in property values when it was instituted.

A study of property values in Berkeley, California in the 1970s and 1980s found the same thing. There, economists concluded that the inflation-adjusted rental

value of housing in Berkeley (which had a rent-control measure) *decreased* from 1970 to 1988, while the value of rental properties in communities across the rest of Alameda County (which had no such measure) *doubled*. See Kenneth T. Rosen, *The Case for Preserving Costa-Hawkins: How Rent Control Reduces Property Values, Hurts Small Businesses and Limits State and Local Tax Revenue* 7, UC Berkeley Fisher Center for Real Estate & Urban Economics (Oct. 2018).

Building from that type of research, a recent Tufts University analysis of the proposed law here concluded that under such a law property values would decrease. Indeed, that analysis projected that over the next decade the proposed law would lead to an aggregate of \$300 billion in declines in Massachusetts property values. *Untold Threat: Rent Control Ballot Question Will Imperil Municipal Budgets*, Tufts University Center for State Policy Analysis (Mar. 2026), <https://perma.cc/5ZRS-4NXL> (“*Untold Threat*”).

2. Rent control harms tenants by decreasing housing availability and quality and reducing development

Rent control also harms tenants in several ways, including by reducing and decreasing the quality of rental options and disincentivizing new development.

First, rent control creates an incentive for existing tenants to remain in their units, in contrast to a free market where rental units are “allocat[ed] . . . in accordance

with the intensity of tenants' preferences" as measured by their "willingness . . . to pay." *Downs* at 21. Such reduced tenant mobility can lead to scenarios where resources are effectively transferred to long-term tenants at the expense of new entrants in the rental market. *Id.*; see also Edward L. Glaeser and Ezro F.P. Luttmer, *The Misallocation of Housing Under Rent Control*, National Bureau of Economic Research Working Paper 6220 (Oct. 1997) (discussing how rent control creates incentives that "limit mobility" and "lead to a mismatch" between individuals and apartments).

Second, rent control decreases the quality of housing options available to tenants, because property owners are limited in how much they can invest in maintenance and upkeep. For instance, a recent study of housing stock in New York City concluded that "rent controlled homes are associated with higher damage rates than non-rent controlled homes." Benjamin W. Schweitzer et al., *An analysis of the impact of rent control on New York City housing*, 38 *Computational Statistics* 1643, 1643 (2023). Likewise, a survey of data for properties in the Boston area in the 1985-1998 timeframe found that "[r]ent control decrease[d] . . . unit maintenance." David P. Sims, *Out of control: What can we learn from the end of Massachusetts rent control?*, 61 *Journal of Urban Economics* 129, 150 (2007) ("*Sims*").

Similar findings have been reported historically and across many regions. That leaves no doubt that the same thing would occur in Massachusetts if the rent-control proposal at issue here were to become law. See Choon-Geol Moon & Janet G. Stotsky, *The Effect of Rent Control on Housing Quality Change: A Longitudinal Analysis*, 10(6) *Journal of Political Economy* 1114 (1993) (study reporting findings that rent control leads to lower housing quality); *Downs* at 20 (describing analyses in New York and Los Angeles that found rental properties under rent control were “on average, in worse physical condition than decontrolled properties”); Konstantin A. Kholodilin, *Rent Control Effects through the Lens of Empirical Research: An Almost Complete Review of the Literature*, DIW Berlin 10 (2022), <https://dx.doi.org/10.2139/ssrn.4298178> (academic literature is “almost unanimous” in regards to conclusion that rent control “leads to a deterioration in the quality of those dwellings subject to regulations”).

Third, rent control decreases the overall volume of housing available. The Sims study of Boston housing data in the 1990s concluded that rent control “induces owners to remove their units from the rental market.” *Sims* at 130. Likewise, a study of property data in San Francisco during the 1990s showed that, over the long term, rent-control policies “shifted the city’s housing supply toward less affordable types

of housing.” Rebecca Diamond, Tim McQuade & Franklin Qian, *The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco*, 109(9) *American Economic Review* 3365, 3366 (2019). The net result in San Francisco “likely drove up citywide rents, damaging housing affordability for future renters” and “counteracting the stated claims” of the law. *Id.*

Again, there is economic consensus on that point, supported by a wide body of empirical research. Recently, the *Wall Street Journal* aptly remarked that “every economist with a pulse” agrees that a decline in housing availability—and, in turn, affordability—follows directly on the heels of rent-control legislation. Editorial, *Rent Control Backfires Again in St. Paul*, *Wall St. J.*, Nov. 10, 2021, <https://tinyurl.com/3hcaty94>.

Those ill effects of rent control—decreased tenant mobility, lower unit quality, and decreased availability—all result in harm to the owners of rental properties as well as to tenants. Property owners are dependent on a supply of tenants, but tenants may withdraw from the rental market (for instance, by relocating or moving in with others) if rental options are unappealing or unavailable. That simply magnifies the direct effects on property owners discussed above: less rental income (or perhaps no rental income) and decreased property values for assets that

likely play a significant role in property owners' finances. With respect to the law proposed in Petition 25-21, those impacts likely would be especially severe, as rental property owners in the Commonwealth have relied for more than half a century on the assurance of a fair return on their investment. *See Marshal House*, 358 Mass. at 703 (holding that state law must be construed to “assure to landlords a reasonable return on their investment”).

Moreover, harming property owners in that manner has cascading negative effects on the communities where they live. As the recent Tufts analysis highlights, the rent-control regime proposed by Petition 25-21 is likely to lead to long-term erosion of property tax revenues across the Commonwealth, with urban areas and college towns facing the most significant declines. *Untold Threat* at 1.

II. THE HARMS FROM THE PROPOSED RENT-CONTROL LAW HERE RISE TO THE LEVEL OF A TAKING

Article 10 of the Massachusetts Declaration of Rights and the Fifth and Fourteenth Amendments to the U.S. Constitution prohibit the taking of private property for public use without just or reasonable compensation. The harms to property owners described above demonstrate that the proposed law would constitute an impermissible taking of property. *See Plaintiffs-Appellants' Opening Br.*, 27-40. At a minimum, those harms are highly relevant to a takings analysis.

A. To decide whether a taking has occurred, the proposed law must be analyzed to assess whether it is an impermissible regulatory taking and whether it is impermissibly confiscatory—either one of which is independently sufficient to establish a violation of takings law.

First, as to the regulatory taking question, the Court must undertake a “careful examination and weighing of all the relevant circumstances.” *FBT Everett Realty*, 489 Mass. at 708 (quoting *Tahoe-Sierra*, 535 U.S. at 321).¹ The Court must consider “several interrelated factors” as part of the regulatory takings inquiry: “(1) ‘the economic impact of the regulation on the claimant’; (2) ‘the extent to which the regulation has interfered with distinct investment-backed expectations’; and (3) ‘the character of the governmental action.’” *Leonard v. Town of Brimfield*, 423 Mass. 152, 154 (1996) (citing *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 124 (1978)).

Each of those three factors requires assessment of the economic ramifications of a regulatory action. In assessing economic impact, the Court must “compare the value that has been taken from the property with the value that remains in the

¹ This Court frequently looks to federal cases when analyzing whether a taking has occurred for purposes of Article 10. See *Fitchburg Gas & Elec. Light Co. v. Dep’t of Pub. Utils.*, 467 Mass. 768, 775 n.8 (2014).

property.” *FBT Everett Realty*, 489 Mass. at 713 (quoting *Keystone Bituminous Coal Ass’n v. DeBenedictis*, 480 U.S. 470, 497 (1987)). In assessing interference with investment-backed expectations, the inquiry is focused on “what, under all the circumstances,” the property owners “should have anticipated.” *Cienega Gardens v. United States*, 331 F.3d 1319, 1346 (Fed. Cir. 2003). And in assessing the character of the government action, the Court must analyze “whether the action burdens some owners disproportionately.” *FBT Everett Realty*, 489 Mass. at 714; *see also Giovanella v. Conservation Comm’n of Ashland*, 447 Mass. 720, 735 (2006) (analysis under third prong includes consideration of “whether a regulation unfairly singles out the owner”).

Second, the proposed law must be assessed to decide whether it is confiscatory. There is ample precedent requiring consideration of whether a rent-control statute deprives property owners of the ability to obtain a reasonable return on their investments and thereby improperly confiscates their property. *See, e.g., Block*, 256 U.S. at 157; *Marshal House*, 358 Mass. at 703; *H.N. & Frances C. Berger Found. v. City of Escondido*, 127 Cal. App. 4th 1, 7 (2005). Courts applying that analysis in the rent-control context have emphasized that “the return” for property owners “should be one which is generally commensurate with returns on

investments in other enterprises having comparable risks.” *Hutton Park Gardens*, 68 N.J. at 570. Moreover, a “drastic” regime—such as one that does not contain any mechanism for landlords to request an individualized exemption—may be “struck down as facially confiscatory.” *Id.* at 571.

B. Under those principles, the law proposed in Petition 25-21 does not pass muster. The economic impact of the law on rental property owners is severe. Because the law incorporates the Consumer Price Index as an effective cap, there is a high likelihood that landlords’ operating expenses will “immediately outpace” allowable rent increases. *See* Plaintiffs-Appellants’ Opening Br., 35-36. That drains the property of significant value, is outside of property owners’ reasonable expectations, and disproportionately burdens property owners who use their property for rental purposes rather than putting it to some other use. *See FBT Everett Realty*, 489 Mass. at 708 (citing *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 148 (2021)). It also deprives property owners of a reasonable return on their investments. *See Marshal House*, 358 Mass. at 703.

In addition, the proposed law threatens extraordinary harms to property owners because it contains no mechanism for them to seek individualized relief. That lack of a safety valve alone imposes disproportionate burdens on property

owners. *See FBT Everett Realty*, 489 Mass. at 714. And a draconian price control regime without any individualized review mechanism is confiscatory by definition. *See Richardson v. City & Cnty. of Honolulu*, 802 F. Supp. 326, 335 (D. Haw. 1992), *aff'd*, 124 F.3d 1150 (9th Cir. 1997) (striking down local rent control ordinance where the law lacked “procedural safeguards against unfairness in situations where the statutorily-determined rate would be unfair”); *see also Hutton Park Gardens*, 68 N.J. at 571 (holding New Jersey rent-control ordinances were not confiscatory because they permitted property owners “to obtain special increases to compensate for certain extraordinary expenses at the discretion of the rent leveling board or governing body”).

CONCLUSION

For the foregoing reasons, *amici* respectfully submit that the rent-control law proposed in Petition 25-21 would cause serious economic harms to property owners. Those harms are relevant to the takings analysis and demonstrate that the law would amount to an impermissible deprivation of property without just compensation. The Court should declare the Petition unlawful and enjoin the Secretary from placing the Petition on the November 2026 ballot.

Dated: April 16, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with Rules 17 and 20 of the Massachusetts Rules of Appellate Procedure. The brief is set in 14-point Times New Roman font and contains 3,952 non-excluded words, as counted by the word-processing system used to prepare it.

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CERTIFICATE OF SERVICE

I, Elaine J. Goldenberg, certify that on April 16, 2026, pursuant to Mass. R. App. P.13(d), a copy of the foregoing amicus brief in *Cella v. Campbell*, SJC-13893, was filed electronically by operation of the Court's electronic filing system, with notice to all parties indicated therein. Parties may access this filing through the Court's system.

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