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JURIDICAL REVIEW REGARDING TRANSFER OF THE RIGHT TO OCCUPATION SERVICE HOUSE OF POLICE

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ABSTRACT:

Nowadays, as time goes by, the growing need for houses is very important for a person. Owning a house is the most basic need and also a right for everyone. In the police sector, efforts to improve the professionalism of public service there are certainly several factors related to the fulfilment of the supported fundamental rights (basic need) life members such as rights can inhabit/own the House adequately either through the procurement service by service and home ownership in private. The home office itself means that the home is state-owned by the Police and provided for by the personnel of the National Police. The placement of the house office's own in the national police (pole)sector has been provided for The Head of National police Decision NO.17/VIII/2001 concerning the implementation of the directive by the publishing house placement service of the SIP. The core of the provisions of the provided home service itself is intended to exist national Police (Police) personnel still active so that it cant be secured and can be better doing their job in terms of promptness and timely. However, in fact, the occupant of the home office is national police personnel has been active more than personnel still active with sip status expired or have not lived by weakness in the control of the designation of the residents of this service which became the forerunner of the move was the rights to occupy or better known by the name of "sale and purchase" or "key money" is certainly not known by the service. This condition needs to satisfy the main purpose of the procurement service itself in the House Police Department.

Keywords: Home Service, Removal Rights, The Police Sector.

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INTRODUCTION

The current service house is desirable for police officers today, but the number of police members is not proportional to the number of service houses. Most service homes today are occupied by police officers who are retired or have more than one service house. Members of the National Police, both active and retired, still choose to live in a service house for several reasons, including not having their own House, because of the office house, and not having a house from the work unit (Maurizka & Rahmadhani, 2019).

Written proof is one of these types of proof, which can be used with authentic writing or underhand writing (Hulu, 2021). An authentic deed is done if a legal act is carried out in the land plot. This can be done due to transactions such as buying and selling, exchange, grants, income received by the company (inherent), sharing of joint rights, granting building use rights or use rights to property rights to land, or granting dependent rights. The Land Deed Making Officer initiated legal proceedings regarding a piece of land (Kholil, 2021).

The service house of a member of the National Police is a state house that he owns or controls. What is meant by "Polri

members themselves" are members of the National Police and civil servants who are still working in the Polri system. A Placement Permit (SIP) issued by an authorized official, meanwhile, regulates the appointment of the right to occupy the Official House itself. If the occupant has a Placement Permit (SIP) in his name, then the placement of the official House is valid. Accompanied by obligations to be performedThe service house of a member of the National Police is a state house that he owns or controls. What is meant by "Polri members themselves" are members of the National Police and civil servants who are still working in the Polri system. A Placement Permit (SIP) issued by an authorized official, meanwhile, regulates the appointment of the right to occupy the Official House itself. If the occupant has a Placement Permit (SIP) in his name, then the placement of the official House is valid. Accompanied by obligations to be performed (Indriani & Santoso, n.d.).

Regarding SIP's ownership, most are retired Police officers who still have SIP even though the validity period has passed. On the other hand, there are still many active police officers who still need to get SIP because they are still being processed. This situation shows the poor management of government housing, particularly regarding

the entrances and exits of the population. Many active and retired colonists took advantage of this shortfall to make money by secretly transferring the right to use the proceeds.

In practice, in the placement of official houses, there are often things that are not regulated in terms of the use of official houses in the neighbourhood of the National Police, as explained in the sense that official houses, that those who have a placement permit and if the person concerned must be returned to the service without any compensation have the right to occupy the official House. In addition to the change in the occupants of the official House due to the "buying and selling" under the hand, or some call it "buying and selling" under the hand, which of course, the service did not realize, there was also a change. In the official House itself (Bikan, 2017). It is similar to a service house built by its inhabitants, changing the standard of decent building.

Following Article 11 of the Decree of the Indonesian National Police concerning Guidelines for the use of official houses within the National Police regarding the right to occupy a service house begins at the time the person concerned obtains a Placement Permit (SIP) from an authorized official and ends when the right to occupy the official House is revoked if the following occurs: 1) The person concerned is dismissed disrespectfully, 2) The person concerned is honourably discharged, 3) The person concerned is honourably discharged, due to retirement, deceased.

Prohibitions for residents of official

houses include: 1) The official House is occupied not by those listed in the SIP, 2) Change the function of the official House either partially or completely (for the practice of doctors and other commercial facilities), 3) The official House is transferred to another person without permission from the office (rented, contracted, etc.), 4) Changing/adding to the original shape of the official house building (add rooms, levels, garages etc.). The problems in this study are: 1) what is the procedure for occupying a service house in the police force ?; 2) How is it implemented in practice?

RESEARCH METHODS

The research methodology used in this study is a normative juridical method. The type of research used in this study is explanatory research. The type of data used in this study is secondary data. The data collection method used in this study is the study of documents. The data analysis technique used is qualitative data analysis.

RESULTS AND DISCUSSION

A. Overview of needs and rights

1. Overview of needs and rights

According to Abraham Maslow's theory, there are varying degrees of human needs, from security to self-actualization. Abraham H. Maslow's theory of motivation is largely based on the idea that people have a hierarchy of needs with five levels, including: (Manua, 2019)

a. Physiological needs, for example,

hunger, thirst, and rest.

- b. Safety needs, not only in the physical sense but also mental, psychological and intellectual.
- c. The need for affection (love needs).
- d. The need for self-esteem (esteem needs) which are generally reflected in symbols and status.
- e. Self-actualization, in this case, means the availability of opportunities for individuals to develop their potential so that they can become real abilities.

The gap or conflict between reality and innate impulses can be described as needs. Consumers will display dissatisfied behaviour if their needs are not met. On the contrary, consumers will behave happily as a sign of satisfaction if their needs are met. A psychological factor that moves living beings in activity and becomes the basis (or justification for trying) is necessary.

It is also interesting to note that Maslow's classical theory is increasingly used and even rumoured to be undergoing correction because more and more organizations develop and develop in society and because the human element in the life of organizations is increasingly understood. These refinements or modifications primarily target Maslow's theory of the hierarchy of needs. Levels are one of the ways to interpret the hierarchy of words. Alternatively, it refers to steps

(Iskandar, 2016).

Maslow argued that people would put their physical needs, such as eating and drinking, ahead of other needs. Once these physical needs are met, you need to consider meeting the following needs: the need for security (home, stable work, etc.), the need for recognition and socialization (becoming the chairman of the RT, achieving success, etc.), and finally the need for actualization. (Success, corresponding position, etc.) As one's social status increases, this need will also increase (Artaya, 2019).

2. Theory of Rights

Right is defined as a right, property, authority, ability to do something (because Law, statute, etc., have established it), the right of power over something or to demand something, degree, or dignity in Indonesian. Explanation of human rights essentially has rights and obligations from birth. Each human has various rights and obligations depending on factors such as status or position in society (Priono et al., 2017).

There is a strong relationship between rights and obligations. Perfect obligations, which are always related to the rights of others, and imperfect obligations, which are not related to the rights of others, are two categories that fall under obligations. Imperfect obligations are based on morality, while perfect obligations have a basis for justice (Prahardika &

Kawuryan, 2018).

3. Overview of housing

The 1945 Constitution Article 28, paragraph 1 mandates that "everyone has the right to live a prosperous life, to live and to have a good and healthy living environment and the right to obtain health services". The mandate positions that the home is everyone's right to obtain and improve the quality of life and livelihood.

Law Number 1 of 2011 concerning housing and settlements states that "every citizen has the right to occupy and or have a decent house in a healthy, safe and orderly environment" (Adisti, 2020).

Official houses or state houses occupied by officials or civil servants are state property. It is called state-owned goods because it is obtained from the state budget or other legitimate acquisitions. Therefore, the official House is a part of state assets that must be managed and managed properly. Likewise, the service house occupied by the police / civil servants in the Police is state property because it is obtained from the state budget or other legitimate acquisitions, so it must be managed and managed properly (Prasetyo et al., 2020).

Regulation of the National Police of the Republic of Indonesia Number 13 of 2018 concerning Housing Services / Dormitories / Mes of the National Police of the Republic of Indonesia Article 1 paragraph 5,

namely housing for the Police Service is a state house in the form of a building owned and controlled by the National Police and functions as a residence or residence and a means of family development and supports the implementation of the duties of Civil Servants at the National Police. Article 1, paragraph 6, namely the House of the Police Service Class I, is Service Housing that is used for holders of certain positions and, because of the nature of their position, must reside in the House, as well as the right of occupancy.

Article 1, paragraph 7 states that the House of the Class II Police Service is Service Housing that has a relationship that cannot be separated from the Police service and is only intended for civil servants at the National Police and if it has stopped or retired the House is returned to the National Police.

B. Procedures for Placing Service Houses in the Police and Their Implementation Practices

1. Police Service House

According to the requirements of the Law, the Police are all issues related to institutions and their role. Police employees are members of the organization. Employees who are qualified, appointed by appointed officials, given positions in positions or given state obligations, and are paid following statutory norms are called civil servants (Arif, 2021).

Government Regulation of the Republic of Indonesia Number 42 of 2010 concerning the Rights of Members of the National Police of the Republic of Indonesia in article 5 letter f, namely other rights of members of the National Police including service/dormitory / mes housing. Article 11 states that: (1) To support the implementation and smooth running of duties, members of the National Police may obtain service/dormitory/mess housing. (2) Members of the National Police who have yet to obtain service/dormitory/mess housing may be compensated for house rent following the state's financial capabilities stipulated by a Presidential Regulation. (3) Provisions regarding official housing/dormitory/mess, as referred to in paragraph (1), shall be regulated by the Regulation of the Chief of Police (Mansyur, 2013).

Regulation of the National Police of the Republic of Indonesia Number 13 of 2018 concerning Housing Services / Dormitories / Mes of the National Police of the Republic of Indonesia Article 12 states: (1) Police Officers who no longer occupy positions must leave/vacate the occupied Class I Police Service House, no later than 30 (thirty) days after the issuance of the mutation telegram letter. (2) Civil Servants at the National Police must leave the Police Service House they live in by 60 (sixty) days

from the date the validity period of the Placement Permit expires and is not renewed. (3) A civil servant at the National Police who is dismissed with disrespect must leave the Police Service House he inhabits by 60 (sixty) days from the date of dismissal. (4) Civil Servants in the National Police who are honourably discharged/retired must leave the Police Service House they inhabit by 90 (ninety) days from the date of dismissal/retirement. (5) Widows/widowers of Civil Servants in the National Police who have died must leave the Police Service House they live in no later than 1 (one) year after the person concerned died. (6) Civil Servants in the National Police who are mutated to other Polda areas, the right to occupy the Police Service House expires and must leave the Police Service House they inhabit by 90 (ninety) days.

Government Regulation of the Republic of Indonesia Number 42 of 2010 concerning the Rights of Members of the National Police of the Republic of Indonesia article 11 states that: (1) to support the implementation and smooth running of duties, members of the National Police can obtain service/dormitory/mess housing. (2) Members of the National Police who have yet to obtain service/dormitory/mess housing may be compensated for house rent

following the state's financial capabilities stipulated by a Presidential Regulation. (3) Provisions regarding official housing/dormitory/mess, as referred to in paragraph (1), shall be regulated by the Regulation of the Chief of Police (Wahyudin & Muliawan, 2021).

2. Problem Analysis

a. Procedure and Implementation of Placement of Official Houses within the Indonesian National Police

The Indonesian National Police (POLRI) is responsible for the welfare of its members as an institution, including through salaries and other benefits such as housing availability. Everyone has basic needs for housing, including members of the National Police. Every member of the National Police works to ensure the welfare and a decent livelihood.

It is hoped that every member of the National Police can carry out their duties properly and concentrate on maintaining the security and order of the community. If the needs of a police officer and the needs of his family are not met, how can he do his job effectively, enforce the Law, protect, and serve the community?

Following this concept, the National Police, as an institution which in this case is the government, is obliged to ensure the welfare of its employees.

According to data from the National Police Headquarters, the number of Polri personnel in 2008 was 413,509 people, consisting of 387,470 Polri members and 26,039 Police civil servants, with the majority of Polri personnel—more than 90% of the total—non-commissioned officers. The level of welfare of employees in the National Police depends on their rank (hierarchy) and categorization (high-ranking officers, middle officers, first officers, and non-commissioned officers). The level of welfare should ideally increase along with position and class. This can be seen from the salary received. The basic salary of a Police officer is usually two million rupiahs per month. The average basic salary of officers ranges from three to five million rupiahs per month.

Polri members are spread throughout Indonesia, starting from the highest level of the Police Headquarters, down to the lowest level, Polsek, in the sub-district area, followed by the provincial level, Polda, and the regency/city level, Polres. Polri policy to meet the presence of police personnel at each level of the region is the police personnel recruitment system based on the domicile (original residence). This system is applied in the recruitment of police non-commissioned officers whose

presence in each Polda in the local area through SPN (State Police School) education, and later based on certain requirements, they (police non-commissioned officers) can also continue their career path to the normal officer level (through schooling continued).

The availability of Polri service houses to accommodate all Polri personnel still needs to be improved. It is certainly difficult to accommodate all existing Police personnel, according to the data above, whose samples were taken in 9 areas of the Polda and Mabes Polri. The average capacity of police service houses is only 17% (20,514 units). Many factors, including the Police's limited budget and land, can lead to this. Therefore, the National Police takes policy by making guidelines or regulations on the management of official houses. The guidelines also specify who can occupy the service house and when that right expires.

1. Procedure for Occupying the Police Service House

The management of official houses in several areas is delegated to appointed officials following the decree of the Chief of Police No. 17/VIII/2001 concerning the rules for the use of official houses within the National Police. At the police headquarters level, the authority is delegated to the Yanma Police

Headquarters. In contrast, at the regional level, the management authority is delegated to the Yanma Police Chief for the Polda level and the Police Chief for the Police level. In fact, in some places, the management of official houses needs to be carried out properly due to the delegation of authority to other officials who work under it. This can be unclear for those currently living in official homes and those who may be moving in the future.

The procedure for occupying a service house is regulated in the decree of the chief of police No. 17 / VIII / 2001 concerning the provisions for the use of official housing in the Polri Environment. In the decision of the Chief of Police, there is a classification of official houses. (1)

Every Police personnel occupying a service house, especially class I, class II, and dormitory, is declared valid if they have a Placement Permit (SIP). Each National Police personnel is also prohibited from occupying more than one residence. The provisions regarding the Placement Permit (SIP) are as follows: "a) Every three years and must be extended again, b) Valid until mutation (moving unit) or ceasing from service.

b. The practice of Implementing Official House Placement

Procedures

Based on these guidelines contained in the Decree of the Chief of Police No. 17 / VIII / 2001 concerning Guidelines for the Use of Service Houses in the Police Environment, it can be concluded that everyone who is still actively serving or a member of the Police is essentially entitled to occupy the official House. That is, they are not entitled to occupy a class I, class II, or another service house except active members of the National Police. In practice, these provisions should be implemented more; there are still parties who should not occupy the official House but occupy the official House. This problem was discovered by Sderembang Mabes Polri and strengthened by data in 2008.

Based on the above data, several areas violate the rules for using official houses. This violation problem practically never occurs in a class I service House or a class II service house (service house). Most of these discoveries were made in official dormitories of a particular type. Dormitories intended for Police employees, especially those who are not included in the definition of residents of class I and class II official houses. The police officers who live in dormitories are often not high-ranking officials but occupy various ranks and positions,

from non-commissioned officers to officers. It was found that people live in dormitory service houses that are no longer authorized (retired). There are even people living there who are not employees or former employees of the National Police or retirees.

These results highlight inadequate public housing management, particularly in tracking in and out of occupants. Some parties take advantage of this shortcoming to carry out the "buying and selling" procedure between parties who will occupy the official dormitory House. The National Police leadership did not try to address or reprimand this long-standing issue. Most of the Police personnel residing in the service house have adopted it as part of the culture.

Regulation of the National Police of the Republic of Indonesia Number 13 of 2018 concerning Housing for The National Police Service / Dormitory / Mes of the Republic of Indonesia Article 6 states: The person in charge of the Management of the Police Service House, is carried out by a. Head of Police Headquarters Service (Kayanma), for Class I and Group II Police Service Houses within the Police Headquarters (Mabes); b. Head of Planning and Administration Bureau

(Karorenmin)/Head of Planning and Administration Section (Kabagrenmin)/Head of Headquarters Detachment (Kadenma)/Head of Headquarters Service (Kayanma) in a work unit that has knighthood within the Headquarters (Mabes) of the National Police and Regional Police (Polda), for Class I and Group II Service Houses; and c. Head of Regional Police Headquarters Service (Kayanma Polda), for Class I and Class II Police Service Houses within the Regional Police (Polda), except for Class II Service Houses located in the Resort Police (Polres) and Sector Police (Polsek) neighbourhoods by the Head of the Resources Section (Kabagsumda) of the Resort Police (Polres).

The prohibition on the use of service houses in the Police is contained in the Regulation of the National Police of the Republic of Indonesia Number 13 of 2018 concerning Housing Services / Dormitories / Mes of the National Police of the Republic of Indonesia Article 12 states: (1) Police Officers who no longer occupy positions, must leave or vacate the occupied Class I Police Service House, no later than 30 (thirty) days after the issuance of the mutation telegram letter. (2) Civil Servants at the National Police must leave the Police Service House they live in by

60 (sixty) days from the date the validity period of the Placement Permit expires and is not renewed.

(3) A civil servant at the National Police who is dismissed with disrespect must leave the Police Service House he inhabits by 60 (sixty) days from the date of dismissal. (4) A civil servant in the National Police who is honourably discharged/retired must leave the Police Service House they inhabit by 90 (ninety) days from the date of dismissal or retirement. (5) The widow or widower of a Civil Servant in the National Police who dies must leave the Police Service House she lives in no later than 1 (one) year after the person concerned dies. (6) For Civil Servants in the National Police who are mutated to other Polda areas, the right to occupy the Police Service House expires, and they must leave the Police Service House they inhabit no later than 90 (ninety) days (Zulherry et al., 2021).

Sanctions for the use of service houses in the Police are contained in the Regulation of the National Police of the Republic of Indonesia Number 13 of 2018 concerning Service Housing / Dormitories / Mes of the National Police of the Republic of Indonesia Article 19 states: (1) Residents of the Police Service House who do not leave or vacate the Police Service House within the period as referred

to in Article 12, an act of forcible emptying is carried out by an integrated team to control the Police Service House after first being given a warning Written. (2) A written warning shall be given by the person in charge of management to the occupants of the Police Service House in stages: a. phase I is given the first warning valid for 30 (thirty) days from the date of issuance of the warning letter; and b. phase II is granted a second warning valid for 15 (fifteen) days from the end of the first warning. (3) If the second warning period has expired, the permanent occupants do not vacate the official House immediately, and the integrated team of police service house control carries out a forced emptying.

Administrative law sanctions can be used in this case. There are several types of sanctions in terms of their targets. In administrative Law, two types of sanctions are known, namely, reparatory sanctions, meaning sanctions that are applied in reaction to violations of norms aimed at restoring to the original condition before or placing in a situation following the Law (legal situation), in other words restoring to the original state before the occurrence of violations, For example, government coercion (bestuursdwang), imposition of

forced money (dwangsom) and punitive sanctions, meaning sanctions aimed at punishing a person, for example, are in the form of administrative fines(14).

1. The Role of Notaries/PPAT in the Process of Moving Official Houses

Notaries are appointed and dismissed by a general power, namely the Minister of Law and Human Rights, as ordered by Law to perform some of the state's public functions in the civil law field. A deed drawn up by a notary becomes the legal basis for a person's property, rights and obligations. Notaries in carrying out the duties and authorities of their positions are regulated in Law Number 30 of 2004 (JN Law) and its amendments to Law Number 2 of 2014 (JN-P Law) (Irmawati et al., n.d.).

A notary is a general officer who has the duty and authority to do authentic deeds regarding all deeds, agreements and stipulations required by a general rule or by interested parties wishing to be inquired in an authentic deed, guaranteeing the certainty of its date, keeping the deed and providing its grosse, copies and quotations, so long as the making of the deed by a general rule confirms or excludes to be made by another official or person (Pomantow, 2019).

A Notarial Deed is an authentic deed made by or in the presence of a notary in which the form and procedure for doing the deed have been stipulated in the Law. The laws and regulations have stipulated several authentic deeds whose manufacturing authority has been given to other officials, namely the Land Deed Making Officer (called PPAT), who is appointed by the government, namely the National Defense Agency, with certain duties and authorities in serving the needs of the community in doing deeds in the land sector. PPAT is a general officer authorized to make authentic deeds related to legal actions against land rights or Property Rights to House Units (14).

PPAT has a working area in one working area of the Kabupate / Municipal Land Office, as the roles of PPAT and the land office are interrelated. The PPAT work area must be determined, as well as the notary's work area, so that in carrying out its duties and authorities, PPAT can only make deeds on legal provisions related to land in its work area. PPAT has the main task of carrying out land acquisition activities by making deeds as proof that legal actions on land rights have been carried out (Maslikan et al., 2018).

The notary must be careful

when examining the certificate of title to the land shown to him. The inaccuracy and negligence of the notary can cause losses to potential buyers because when the parties sign the deed of agreement, both have rights and obligations and are bound by each other. The legal terms of the agreement are regulated in Article 1320 of the Civil Code, namely the parties' agreement, the ability of the parties to agree, a certain point, and a cause that is not prohibited. Agreement and agreement are valid subjective conditions that, if not fulfilled, the agreement can be cancelled. Meanwhile, a certain subject matter and a cause that is not prohibited is a valid objective condition that, if not fulfilled, then the agreement is null and void (Irmawati et al., n.d.).

Regulation of the National Police of the Republic of Indonesia Number 13 of 2018 concerning Housing Services / Dormitories / Mes of the National Police of the Republic of Indonesia Article 7 states that: (1) Every Civil Servant at the National Police who occupies the Police Service House must have a Placement Permit (SIP). (2) The Placement Permit (SIP), as referred to in paragraph (1), is issued by: a. Head of Police Headquarters Service (Kayanma), for the Class I and Group II Police Service Houses

within the Police Headquarters (Mabes); b. Head of Planning and Administration Bureau (Karorenmin)/Head of Planning and Administration Section (Kabagrenmin)/Head of Headquarters Detachment (Kadenma)/Head of Headquarters Service (Kayanma) in a work unit that has knighthood within the Headquarters (Mabes) of the National Police and Regional Police (Polda) for the Police Service House Class I and Group II; c. Head of Service of the Regional Police Headquarters (Kayanma Polda), for the Class I and Class II Police Service Houses within the Regional Police (Polda); and d. Head of Resources Section (Kabagsumda) of Resort Police (Polres), for Class II Police Service Houses located within the Resort Police (Polres) and Sector Police (Polsek). (3) The issuance of a permit for the placement of the Police Service House in a tiered manner is reported to the Chief of Police.

The findings were regarded as commonplace and seemed to have been cultivated. If left unattended without a solution, it can cause problems in the future. Economic inequality between police personnel and economic inequality in hierarchy and position within the National Police can trigger social jealousy, which, if left unchecked,

will damage the system within the Polri organization. The purpose of providing a service house is to make it easier for Polri personnel to serve and also to ensure the welfare of Police personnel and their families and can ease the economic burden for those who do not have a private house or police personnel who are not financially sufficient (Iryadi, 2019).

CONCLUSION

The regulation regarding the management of official houses, in this case, is the Decree of the Chief of Police No. 17 / VIII / 2001 related to administrative guidelines for the provisions for the use of official housing in the police environment has not been carried out optimally so that there are still many residents of official houses who do not know about the regulation.

In the practice of home inspection, there are many deviations, such as the application of SIP, control and supervision of officials related to house residents, as well as the implementation of the obligations of house residents. The ineffectiveness of the comparison between the service house and the number of police personnel has yet to be able to realize the fulfilment of the basic right of police members to occupy the service house in improving the professionalism of the performance of the National Police itself.

The next suggestion for researchers is that there should be regulation and

improvement of the Law regulating official occupancy and dissemination to the public about the Decree of the Chief of Police No. 17/VIII/2001. The police chief remains committed to enforcing strict and uniform sanctions for all offenders.

Conducting a comparative study with the rules governing the occupants of official houses in the Police, where the rules have been implemented with high commitment from the residents of the official houses and authorized officials, following procedures.

The National Police itself must consider using flats that are effectively used for knight dormitories and dormitories for members of the National Police, in general, to increase the existence of official houses so that they can support the implementation of duties and improve the welfare of the Police.

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