

# UNOFFICIAL COPY

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**WHEN RECORDED MAIL TO:**

Parkway Bancorp.  
4800 N. Harlem  
Harwood Heights, IL 60656

DEPT-01 RECORDING \$31.50  
760011 TRAM 7278 05/23/97 09:10:00  
#3964 : KP #-97-367669  
COOK COUNTY RECORDER

FOR RECORDER'S USE ONLY

This Assignment of Rents prepared by **LAURA SPIZZIRRI**  
4800 N Harlem  
Harwood Heights, IL 60656

RE TITLE SERVICES #

495609 243

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## ASSIGNMENT OF RENTS

THIS ASSIGNMENT OF RENTS IS DATED MAY 20, 1997, between JAMES AUGUST, whose address is 13237 S. BRAINARD AVENUE, CHICAGO, IL 60633 (referred to below as "Grantor"); and Parkway Bancorp., whose address is 4800 N. Harlem, Harwood Heights, IL 60656 (referred to below as "Lender").

**ASSIGNMENT.** For valuable consideration, Grantor assigns, grants a continuing security interest in, and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Cook County, State of Illinois:

LOTS 6 TO 9 IN BLOCK 3 IN COX THIRD SUBDIVISION BEING A SUBDIVISION OF THAT PART OF THE W 3/4 OF THE N 1/2 OF THE SE 1/4 OF THE NW 1/4 OF SECTION 31, TOWNSHIP 37 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NE OF KENSINGTON EASTERN RAILROAD RIGHT-OF-WAY, IN COOK COUNTY, ILLINOIS.

The Real Property or its address is commonly known as 13237 S. BRAINARD, CHICAGO, IL 60633. The Real Property tax identification number is 26-31-112-006 TO 011.

**DEFINITIONS.** The following words shall have the following meanings when used in this Assignment. Terms not otherwise defined in this Assignment shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Assignment.** The word "Assignment" means this Assignment of Rents between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Rents.

**Borrower.** The word "Borrower" means JAMES AUGUST and MICHAEL CARROLL.

**Existing indebtedness.** The words "Existing indebtedness" mean an existing obligation which may be secured by this Assignment to EAST SIDE BANK & TRUST COMPANY described as: MORTGAGE LOAN DATED AUGUST 20, 1996, AND RECORDED UNDER DOCUMENT NO. 96658000. The existing obligation has a current principal balance of approximately \$95,678.88 and is in the original principal amount of \$100,000.00.

**Event of Default.** The words "Event of Default" mean and include without limitation any of the Events of Default set forth below in the section titled "Events of Default."

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Grantor. The word "Grantor" means any and all persons and entities executing this Assignment, including without limitation all Grantors named above. Any Grantor who signs this Assignment, but does not sign the Note, is signing this Assignment only to grant and convey the Grantor's interest in the Real Property and to grant a security interest in Grantor's interest in the Real Property to Lender and is not personally liable under the Note except as otherwise provided by contract or law.

Indebtedness. The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under the Assignment, together with interest on such amounts as provided in the Assignment. In addition to the Note, the word "Indebtedness" includes all obligations, debts and liabilities, due or payable, of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower, or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntarily or otherwise, whether due or not due, absolute or contingent, liquidated or unliquidated and whether Borrower may be liable individually or jointly with others, whether assigned as guarantor or otherwise, and whether recovery upon such indebtedness may be or may not become barred by any statute of limitations, and whether such indebtedness may be or may not become unenforceable.

Lender. The word "Lender" means Parkway Bancorp, its successors and assigns.

Note. The word "Note" means the promissory note or credit agreement dated May 20, 1997, in the original principal amount of \$1,120,380 from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, conditions of, and substitutions for the promissory note or agreement. The interest rate on the Note is 8.500%. The Note is payable in 58 monthly payments of \$1,121.00 and a final estimated payment of \$1,120.38.

Property. The word "Property" means the real property, and all improvements thereon, described above in the Assignment section.

Real Property. The words "Real Property" mean the property, interests and rights described above in the "Property" section.

Related Documents. The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all rents, revenues, income, values, profits and proceeds from the Property, whether due now or later, including without limitation all rents from all leases described on any exhibit attached to the Assignment.

This Assignment is given to secure: (1) Payment of the Indebtedness and (2) Performance of any and all obligations of Grantor and Borrower under the Note. This Assignment, and the related documents, this Assignment is given and accepted on the following terms:

Grantor's Waivers. Grantor waives all rights or defenses arising by reason of: (a) "one action" or "one deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to a claim for deficiency, debtors or after Lender's commencement or completion of any foreclosure action, other judicially or by exercise of a power of sale.

Grantor's Representations and Warranties. Grantor warrants that: (a) the Assignment is executed at Borrower's request and not at the request of Lender; (b) Grantor has the full power, right, and authority to enter into the Assignment and to hypothecate the Property; (c) the provisions of the Assignment do not conflict with, or result in a default under any agreement or other instrument binding upon Grantor and do not result in a violation of any law, regulation, court decree or order applicable to Grantor; (d) Grantor has established adequate means of obtaining from Borrower on a continuing basis information about Borrower's financial condition; and (e) Lender has made no representation to Grantor about Borrower (including without limitation the creditworthiness of Borrower).

Grantor's Waivers and Responsibilities. Lender need not set Borrower about any action or fraction Lender takes in connection with this Assignment. Borrower assumes the responsibility for being and keeping informed about the Property. Borrower waives any defenses that may arise because of any action or fraction of Lender, including without limitation any failure of Lender to realize upon the Property, or any delay by Lender in realizing upon the Property. Borrower agrees to remain liable under the Note with Lender no matter what action Lender takes or fails to take under the Assignment.

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Loan No 1

## ASSIGNMENT OF RENTS (Continued)

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**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Assignment or any Related Document, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE RENTS.** With respect to the Rents, Grantor represents and warrants to Lender that:

**Ownership.** Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

**Right to Assign.** Grantor has the full right, power, and authority to enter into this Assignment and to assign and convey the Rents to Lender.

**No Prior Assignment.** Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

**No Further Transfer.** Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Agreement.

**LENDER'S RIGHT TO COLLECT RENTS.** Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

**Notice to Tenants.** Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

**Enter the Property.** Lender may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

**Maintain the Property.** Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

**Compliance with Laws.** Lender may do any and all things to execute and comply with the laws of the State of Illinois and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

**Lease the Property.** Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

**Employ Agents.** Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

**Other Acts.** Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and remove all of the powers of Grantor for the purposes stated above.

**No Requirement to Act.** Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

**APPLICATION OF RENTS.** All costs and expenses incurred by Lender in connection with the Property shall be for Grantor and Borrower's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the Indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the Indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

**FULL PERFORMANCE.** If Grantor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law. If, however, payment is made by Borrower, whether voluntarily or otherwise, or by guarantor or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment (a) to Borrower's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (b) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of Lender's property, or (c) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Borrower), the Indebtedness shall be considered unpaid for the purpose of enforcement of this Assignment and this Assignment shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Assignment or of any note or other instrument or agreement.

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evidencing the indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Grantor shall be bound by any judgment, decree, order, settlement or compromise relating to the indebtedness or to this Assignment.

**CONDITIONS BY LENDER.** If Grantor fails to comply with any provision of this Assignment, including any obligation to maintain Existing Indebtedness in good standing as required below, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Assignment also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**DEFAULT.** Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Assignment:

**Default in Favor of Third Parties.** Should Borrower or any Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may be affected by the property of Borrower's or any Grantor's ability to repay the Loans or perform the respective obligations under this Assignment or any of the Related Documents.

**False Statements.** Any false, representation or statement made or furnished to Lender by or on behalf of Grantor or Borrower under this Assignment, the Note or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

**Defaulting Co-obligations.** The assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral documents) if any of the following occurs: (a) the assignment ceases to be in full force and effect for any reason.

**Other Defaults.** Failure of Grantor or Borrower to comply with any term, obligation, covenant, or condition contained in any other agreement between Grantor or Borrower and Lender.

**Death or Insolvency.** The death of Grantor or Borrower or the dissolution or termination of Grantor or Borrower's existence as a going business, the bankruptcy, insolvency, reorganization, liquidation, or assignment for the benefit of creditors, or the commencement of any proceeding, or the commencement of any process (including any bankruptcy or insolvency laws) or against Grantor or Borrower.

**Foreclosure, Forfeiture, etc.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any of the Property. However, this subsection (iv) shall not apply in the event of a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the foreclosure or foreclosure proceeding, provided that Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Property, or any of the following occurs: (a) Guarantor dies or becomes incompetent, or revokes or disavows the validity of, or liability under, any Guaranty of the Indebtedness; Lender, at its option, may, but shall not be required to, permit the Guarantor to assume unconditionally the obligations arising under the Guaranty in a manner satisfactory to Lender, and, in doing so, cure the Event of Default.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

**Insolvency.** Lender reasonably deems that insolvency, a default shall occur under any Existing Indebtedness or under any instrument on the Property securing any Existing Indebtedness, or commencement of any suit or other action to foreclose any existing lien on the Property.

**Material Breach.** If such a failure is curable and if Grantor or Borrower has not been given a notice of a breach of the same provision of this Assignment within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor or Borrower, after Lender sends written notice demanding cure of such failure, (a) cures the failure within fifteen (15) days, or (b) if the cure requires more than fifteen (15) days, immediately notifies Lender sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**MONTHS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Borrower to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Borrower would be obligated to pay.

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required to pay.

**Collect Rents.** Lender shall have the right, without notice to Grantor or Borrower, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender shall have all the rights provided for in the Lender's Right to Collect Section, above. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Mortgagee in Possession.** Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

**Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Assignment shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Grantor or Borrower under this Assignment after failure of Grantor or Borrower to perform shall not affect Lender's right to declare a default and exercise its remedies under this Assignment.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the rate provided for in the Note. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, and title insurance, to the extent permitted by applicable law. Borrower also will pay any court costs, in addition to all other sums provided by law.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Assignment:

**Amendments.** This Assignment, together with any Related Document, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Applicable Law.** This Assignment has been delivered to Lender and accepted by Lender in the State of Illinois. This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

**Multiple Parties.** All obligations of Grantor and Borrower under this Assignment shall be joint and several, and all references to Grantor shall mean each and every Grantor, and all references to Borrower shall mean each and every Borrower. This means that each of the persons signing below is responsible for all obligations in this Assignment.

**No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage, deed of trust, or other security agreement which has priority over this Assignment by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Assignment in all other respects shall remain valid and enforceable.

**Successors and Assigns.** Subject to the limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Assignment.

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My commission expires

08/01/97

Notary Public in and for the State of

ILLINOIS

Residing at

1800 N. Halsted

James August

Given under my hand and official seal this day of

July 1997

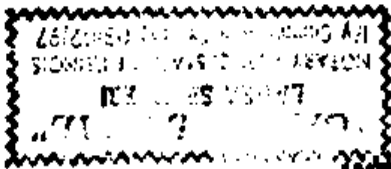
the Assignment as he or her free and voluntary act and deed, for the uses and purposes therein mentioned. On the day before me, the undersigned Notary Public, personally appeared JAMES AUGUST, to me known to be the individual described in and who executed the Assignment of Rents, and acknowledged that he or she signed

COUNTY OF

Cook

STATE OF

ILLINOIS



INDIVIDUAL ACKNOWLEDGMENT

JAMES AUGUST

[Signature]

GRANTOR:

GRANTOR AGREES TO ITS TERMS

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT OF RENTS, AND

to enforce the personal liability of any grantor... GRANTOR'S LIABILITY. The Assignment is executed by Grantor, not personally but as Trustee as provided above in the exercise of the power and authority conferred upon and vested in it as such Trustee (and Grantor thereby warrants that it possesses full power and authority to execute this instrument, and it is expressly understood and agreed that nothing in the Assignment or in the Note shall be construed as creating any liability on the part of Grantor personally to pay the Note or any interest that may accrue thereon, or any indebtedness under the Assignment, or to perform any covenant, express or implied contained in the instrument, at such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security under the Assignment, and that so far as Grantor and its successors, heirs, assigns, legal heirs or holders of the Note and the owner or owners of any part of the property are concerned, the legal holder or holders of the Note and the owner or owners of any part of the property shall look solely to the Property for the payment of the Note and indebtedness, by the enforcement of the lien created by the Assignment in the manner provided in the Note and herein or by action to enforce the personal liability of any grantor... GRANTOR'S continuing consent to subsequent financing where such consent is required. Lender is required in the Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent financing where such consent is required. Lender's rights or any of Grantor or Borrower's obligations as to any future transactions. Whenever consent of Lender, or any course of dealing between Lender and Grantor or Borrower, that constitutes a waiver of any of the rights otherwise to demand strict compliance with the provision or any other provision. No prior waiver by Grantor or any party of a provision of the Assignment shall constitute a waiver of or prejudice the party's right on the part of Lender in exercising any right that operates as a waiver of such right or any other right. A waiver and consent. Lender shall not be deemed to have waived any rights under the Assignment for the purpose of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all indebtedness secured by the Assignment.

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