

Frequently Asked Questions-Buyers

Investigation/Inspection

Should I perform a Home Inspection?

Answer: Yes. A Home Inspection should be done immediately after your offer is accepted. The modest payment for an inspection is a good investment. If there are any important issues raised, you should discuss them with your Real Estate Agent.

Should I attend the Home Inspection?

Answer: Yes. It will give you an opportunity to ask questions about the home. It will also allow you to put the Inspector's comments into perspective. Once you go to Contract, you generally take the Property "as is", so you should be thorough. Remember to look behind furniture and under movable rugs.

What else should I investigate?

Answer: At the beginning, a Buyer should investigate/confirm:

- 1. Property Taxes-** Contact the Town's Receiver of Taxes to confirm that the Property Tax figures provided to you are accurate. Sometimes the information initially provided is old or incorrect.
- 2. Town Approvals-** Contact the Town's Building Dept. to confirm that Town Approvals are in place for all improvements to the Property. The Title Search will eventually contain some of this information, however a preliminary investigation will help:
 - 👉 **Save Time-** It can take time for the Seller to get needed approvals. The earlier they start the better.
 - 👉 **Assure Thoroughness-** Title Searches don't always address all improvements, especially for interior improvements (i.e. finished basements and bedrooms). The Building Department may state that there are no violations, but there may be improvements that the Town is unaware of.
- 3. Condominiums-** If you are buying a Condominium, you should contact the Management Company to see if there are new assessments or restrictions (i.e. rules regarding pets, age of children to use facilities, vehicle parking and mandatory memberships). You should also make sure that you have seen the Offering Plan, By-Laws and Financials for the Condominium. You should also have your financial advisor review the Financials.

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Contracts

I have reached an agreement with the Seller. What is my next step?

Answer:

1. **Receipt of Contracts-** The Seller's Attorney sends a Contract to your Attorney. At this time, you should tell your Attorney about any repairs that have been agreed to.
2. **Contract Signing & Downpayment Provided-** Once the Attorneys finish negotiating the legal aspects of the Contracts, you will sign and provide a check for your Downpayment (Deposit).
3. **Contracts Sent to Seller-** The Contract (signed by you) with the Downpayment Check will then be sent to the Seller's Attorney.
4. **Contracts Signed by Seller-** The Seller will sign the Contracts and return a fully signed copy of the Contracts to your Attorney.

What is the Downpayment?

Answer: The deposit that you provide when you sign the Contracts. Your Downpayment Check will be cashed when the Contracts are fully signed, and the money will be held by the Seller's Attorney. A personal check for the Downpayment is preferable (although bank checks will be needed at the Closing).

When do I provide the Downpayment?

Answer: When you sign the Contracts.

How much is the customary Downpayment?

Answer: Typically 5%-10% of the sales price. However the parties can negotiate and agree to less. The amount of the Downpayment is not necessarily tied into the Mortgage amount, since it is just the security/deposit that the Seller collects to make sure that you do not default under the Contract.

What is the most common reason for losing a Downpayment?

Answer: Buyers can get into trouble if they do not apply for a Mortgage promptly, lie on the Mortgage Application, or are not ready to close according to the terms of the Contract.

When is the Contract "Locked in"?

Answer: Once the Seller has signed the Contract and returned it back to your Attorney, all parties are fully bound to the terms of the Contract.

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What is a typical Closing Date?

Answer: Typically ~60-90 days from when Contracts are fully signed, but it can vary depending on both parties' needs.

Are Closing Dates in Contracts firm?

Answer: No. Normally it is an approximate "On or About" date. Often (but not always) closings are usually within ~15-30 days of the "approximate" date stated in the Contract. However, everyone usually works together to close on a convenient date. Avoid making firm plans with movers, etc. until the Title and Mortgage are both fully clear. If you are unsure, you should speak with your Attorney.

Mortgage Application

When should I apply for a Mortgage?

Answer: As soon as you decide to start looking for a home. Many Sellers will not accept your offer if you are not "pre-approved" (*see below*).

What is the difference between "Pre-Qualified" and "Pre-Approved"?

Answer:

1. "**Pre-Qualified**" usually means that the Lender has determined the maximum loan that it will approve based solely on the information provided to it verbally by the Buyer. It is without verification.
2. "**Pre-Approved**" usually means that the Lender has made the same determination, but with verification, based on written documentation (including a credit report). Since this requires more research by the Lender, it is more reliable and carries more weight.

When should I "Lock In" my rate with the Lender?

Answer: Not until you talk to your Attorney and definitely not until Contracts are fully signed. Typically the Seller will often cooperate in closing before your rate expires. However there is no guarantee that the Seller can or will. An ideal rate lock expiration date will be at least 15-30 days past the closing date in the Contract.

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What is a "Mortgage Contingency Date"?

Answer: A specific amount of time for you to procure a Mortgage Commitment Letter. You must send your Attorney a copy of your Mortgage Commitment Letter when you have accepted it.

What if I receive a Mortgage Commitment Letter but later the Bank does not fund my loan?

Answer: Most Contracts state that you are bound to the Contract even if the Bank does not fund the loan. This can happen if there is a condition in the Mortgage Commitment Letter that you cannot comply with, the Bank goes out of business or terminates that loan program, or if an event occurs that causes you to lose your Mortgage Commitment (i.e. change in credit or loss of job).

You can help prevent this by 1) Using a reputable Lender which focuses primarily on the area that you are buying in and one that your Attorney is familiar with; 2) Making sure that your Lender does not issue a Mortgage Commitment Letter with conditions that are outside of your control; and 3) Notifying your Attorney before Contracts are signed if there is an event that could potentially cause you to lose your Mortgage Commitment (i.e. credit issues or employment problems).

What is an Lender Escrow Account?

Answer: An Lender Escrow Account is a reserve account that is set up by the Lender at the time of the closing, so your Lender can pay your real estate taxes and hazard insurance when they are due.

My Lender says that its Bank Attorney is not local, but will travel to the closing. Is this OK?

Answer: This should be avoided. The Lender should select someone located in the area that you are buying in. There are a few potential problems with a traveling Bank Attorney: 1) It will be harder to schedule the closing since the Bank Attorney will have to account for travel time; 2) If there are any problems, that Bank Attorney might not have access to get new documents; 3) The Closing might be adjourned if the Bank Attorney does not get the Bank documents on time, gets lost or stuck in traffic; and 4) If their wire arrives late (which is common), the Bank Attorney might not have access to their bank to get certified funds.

If I cannot get a Mortgage because I have to Sell my House, can I get out of the Contract?

Answer: Not unless you have a "Sale Contingency". Most Contracts do not have a "Sale Contingency" and contain a provision which states that a Buyer is bound to the Contract even if the Buyer's Mortgage Commitment Letter requires the sale of the Buyer's Home. The only way to guarantee that you can get out of the Contract would be if there was a "Sale Contingency" in the Contract. This would have to be negotiated with the Seller.

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Title

What is a Title Search?

Answer: Typically, a Title Company performs a search to make sure that there are no easements/rights of way, liens or other issues affecting clear Title to the premises. The search also contains copies of all Town Approvals and a copy of a Survey if available.

What is Title Insurance?

Answer: A type of insurance that protects the Buyer from Title defects. These defects could result from undetectable issues such as improperly performed court actions, improperly filed or unrecorded papers and fraud. These issues do not just relate to the present Seller but also to any prior owner. Further, many defects that come up in a Title Search cannot be cleared by the Seller but can be cleared by their Title Company.

↳ **It is a One-Time Payment-** Not annual

↳ **It Does Not Cover Building Department Violations-** The Title Company provides a copy of the relevant Building Department papers but does not guarantee that there are no violations. The Buyer should always investigate this issue as well.

What is a Survey?

Answer: A Survey is a drawing of the property showing the property line boundaries, the location of the house and exterior improvements.

Will I have to get a Survey?

Answer: Maybe. The Seller provides one as a courtesy if the Seller has a copy. You should immediately ask if the Seller has one. This will also expedite the closing since you will not need to wait for one to be found.

If not, you may be able to find one in the Town's Building Department. Also, the Title Company will try to get one from the previous Title Company, but it might be a while until they get an answer. If a Survey cannot be found, then the Title Company might not be able to properly guarantee the Property's boundary lines.

However, it may be advisable to get a new Survey even if one can be found. If there were any improvements (including fences) made by the owner or its neighbors after the creation of the survey, it is likely that the Buyer will be unable to tell if they cross over the boundary lines. If any of these new improvements block access to a portion of the subject premises (like a fence or wall), it might create a boundary line issue which will create difficulty when you sell the property.

You will not need a Survey if you are buying a condominium.

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Who pays for the Title Search, Title Insurance and Survey?

Answer: Usually the Buyer. However, the Buyer may not need to get a new Survey if one is available (*see above*).

Pre-Closing

When should I initiate Homeowners/Hazard Insurance?

Answer: You should start your Homeowners/Hazard Insurance paperwork after the contracts are signed. You will then finish when you know the closing date. Once the Closing Date is set, you will need to send your Homeowners/Hazard Insurance binder and paid receipt to your Attorney. Your Lender will want its name stated in a particular way in the insurance binder as instructed in your Mortgage Commitment Letter.

When should I initiate liquidating and transferring assets into our checking account?

Answer: You should speak to your lending institutions regarding the time frame. It may take much more time than you anticipate to get funds into your checking account or for checks to clear.

Closing

What is a Closing?

Answer: The day when you receive the Deed and the keys to the Property.

When can I schedule a Closing?

Answer: A Closing can typically be set within 1 week (depending on availability) of the following being in place:

1. Title is fully clear
2. Bank is "Clear to Close"- The Bank must notify you that it is "clear for closing" (this is different than receiving a commitment letter); and
3. The Parties are ready to close

What is an "on or about" Closing date?

Answer: Usually Real Estate Contracts in New York provide for an approximate closing date. This is different than a target date. Typically, the parties must close within a "reasonable" period of time after the date stated in the Contracts. Usually there can be up to a 30 day window, but that is not guaranteed and should not be counted on. Often, additional considerations can lead to an earlier or later time frame.

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Where will the Closing take place?

Answer: Typically at the Bank's Attorney's office in the county where the Property is located.

Make sure your Bank chooses a local Bank Attorney. If the closing does not occur in the county where the Property is located, you could incur additional fees and/or have difficulty closing on your desired date.

When can I move in and take possession?

Answer: When the closing is completed.

Can I see the House before I close?

Answer: Yes. You should do a "walk through" the day before the closing. If you wait until the morning of the closing, you may not provide the Seller enough time to fix a problem, or you may not have enough time to investigate it further.

How much will my closing costs be?

Answer: The answer depends on your loan program, taxes and other factors. Typically a Lender will provide an estimate of costs. However, that estimate might not address costs that are not directly related to them (i.e. fuel, reimbursing the Seller for Property Taxes already paid for and your Attorney fee.

For a more precise figure, take the Lender's estimated closing costs and 1) Change the amount of the Real Estate Tax escrows to an amount equal to 1 year of Real Estate Taxes; and 2) Add all other costs that you know of that are not shown (i.e. your attorney, estimate fuel, etc.)

Who pays for the Real Estate Agent?

Answer: Typically the Seller.

What is usually not included in my Attorney's fee?

Answer: The fee generally does not include disbursements or uncustomary work such as leases, powers of attorney, previous deals and non-local closings. It also does not include disbursements or the Lender's Settlement/Attorney's fee.

When will I know what Bank Checks I will need to bring to Closing?

Answer: Typically 1 business day before your Closing. That is when your Bank will probably notify your Attorney how much the Bank is actually giving you at the closing (they will be subtracting their fees, escrows, etc.)

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Helpful Tips

- 1. Immediately procure a Buyer's Mortgage "Pre-Approval"**- The Seller and its Real Estate Agent will want to make sure that you will not have any problems in getting a loan. It is important that your Lender does a lot of closings in the local area. This way the Seller and its Real Estate Agent will know that the Lender is good and reputable.
- 2. Avoid Internet or Non-Local Lenders**- Because there is little accountability in or knowledge of the local area, we have experienced problems with these types of Lenders.
- 3. Ask Questions**- You are not supposed to know everything about or be an expert in buying a home.
- 4. Use a Qualified Professional**- See "*Hiring Qualified Professionals*" Article.
- 5. Be present at the Home Inspection**- Your Inspector might be able to provide some verbal insight not contained in the written report and an opinion regarding some preventative or remedial measures. Further, things are often not as bad when you see them "live" as opposed to in a written report.
- 6. Be thorough when you inspect the house**- Since you generally take the property "as is", you don't want to find out after you've purchased the house that there are problems. Look behind furniture and under movable rugs.
- 7. Transfer funds into your Bank or liquidate assets in time**- It may take more time than you think to get funds into your account or for checks to clear. Further, if you have to liquidate assets (i.e. stocks) the process can take a few days, and you may still need additional time for the check to clear.
- 8. Consult your Attorney before making moving plans or "locking in" your Mortgage rate**- Your Attorney is probably in the best position to let you know if a date is realistic. While the Seller or others may feel that the closing could happen at a certain time, there may be legal or other issues being worked on that they don't know about.

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Buyer's Checklist

#1 PRIOR TO FINDING A HOME

- Retained a local Real Estate Agent-Using one quality agent is best.
- Procured a "Pre-Approval" for a Loan-Most Sellers will not accept your offer without a "Pre-Approval". Your Real Estate Agent or Attorney can recommend one to you.

#2 NEGOTIATION, INVESTIGATION & INSPECTION

TERMS OF SALE NEGOTIATED WITH SELLER (Through Real Estate Agent)

- Discussed Price
- Discussed Downpayment Amount -Usually 10% of the Purchase Price (Not necessarily related to the amount Purchaser is borrowing from Bank)
 ☞ Downpayment is given by you when you sign the Contracts
- Discussed approximate Closing Date
- Discussed items Included and Excluded-Appliances, window treatments, light fixtures, etc.

INVESTIGATION- It is sometimes better to investigate some issues at the beginning

- Verified Property Taxes -Contact Town's Receiver of Taxes
- Verified School District- Contact Town's Receiver of Taxes or School District
- Verified that Town Approvals for all Improvements are in place- Contact Building Dept.

If a Condominium- Contact Management Company

- Verified Common Charges
- Verified Assessments
- Asked if there were any other fees or proposed assessments or other problems
- Received Offering Plan & Bylaws- From Seller

INSPECTION OF PROPERTY

- Inspection scheduled with Home Inspector
 ☞ ⌚ ASAP- Customarily within a few days of the Seller accepting your offer
- Inspection completed- Try to attend personally so you can ask questions
- Notified Real Estate Agent about items of concern (if any) immediately after inspection

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#3 BEFORE CONTRACTS ARE SIGNED

- Made arrangements for Downpayment money to be available
- Mortgage Application made-The application process should start immediately. If the present deal does not go through, your application papers may be used for the next deal.
☞ Do not lock into your rate until you talk to your attorney.
- Notified Attorney of repair items (if Any) Seller is willing to remedy
- Notified Attorney of Home Inspection results still Pending-Mention them to the Attorney when your Appointment to sign Contracts is made (i.e. water, radon, etc.).

#4 CONTRACT SIGNING WITH YOUR ATTORNEY

- Brought personal check for Downpayment to appointment with Attorney
- Contract signed by Purchaser (☞ ASAP)- And Downpayment check written and sent with Contract.
- Received notification from Agent or your Attorney that the Seller signed Contracts
☞ You are officially "in contract" and all are parties bound to the deal only when both parties have signed the Contracts and the Contracts have been delivered to your Attorney.

#5 MORTGAGE APPROVAL PROCESS

- Provided all documents initially requested by Mortgage Lender.
- Rate locked-Don't Lock in Too Early! The Seller may not be able to close by that date, so give yourself sufficient time. You should not request a lock-in date prior to the Contracts being fully signed by all parties and the "Rate Lock Expiration" should not be earlier than closing date in the Contract.
- Notified Attorney of Rate Lock Expiration date
☞ ☞ Call your attorney the day you lock in rate
- Appraisal done by Mortgage Lender
- Bank confirmed that they have all documentation/information needed.
- Mortgage Commitment Letter received from the Bank and accepted by you.
☞ ☞ By the Date required in Contract
☞ Mortgage Commitment Letter is not the same thing as the Pre-Approval.
- Cleared remaining conditions in Mortgage Commitment Letter- There usually are a few.
- Notified by Lender that you are "Clear to Close"
- Notified Attorney you are "Clear to Close"

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#6 AFTER CONTRACTS ARE FULLY SIGNED

- Homeowner's Insurance initiated-** Contact Insurance Company to procure
 - ☞ The Bank will wish to be named as an additional insured on the Insurance Binder. The exact name should be in your Mortgage Commitment Letter.
 - ☞ ⌚ Start the insurance paperwork after the Contracts are signed. Then finalize when you know the closing date.

#7 CLOSING SET (PRIOR TO CLOSING)

- Notified by Attorney of Closing Date -Closing Date → (___/___/___)**
 - ☞ It is not uncommon for the Lender to discuss this date with you. However, only the Attorney sets up the date with the Seller

(⌚) *At least 7 Days Before Closing*

- Arrange for Closing funds to be available at your Bank for day of Closing**
 - ☞ It may take additional time to get funds into your account or for checks to clear. Also, if you have to liquidate assets (i.e. stocks) it can take a few days
- Contact Phone Company**
- Contact Utility Company(s) (Electric, gas, etc.)**
- Contact Cable Company**
- Finalize Movers/Truck arrangements**

(⌚) *At least 3-5 Days Before Closing*

- Sent Homeowner's Insurance Binder and Paid Receipt to Attorney**
 - ☞ If your Insurance Agent offers to fax it to your Attorney, confirm receipt.

(⌚) *At least 1 Day Before Closing*

- "Walk Through"** The day before is ideal so the Seller can attempt to fix any issues. Some issues might also require time to investigate. Arranged with Real Estate Agent
 - ☞ **If the Seller is still in the premises-**Check the majority of items the day before and do a brief scan when they leave to make sure nothing has changed.

(⌚) *Before Closing-1 Day Before or the Day of Closing*

- Procured Bank Checks**
 - ☞ **Amounts and who checks are made payable to will come from your Attorney.** Normally your Attorney will not be given numbers from your Lender until the day before the closing.

#8 AFTER CLOSING

- Apply for "Star Program"-** For property tax reduction. Forms are at town tax office. You will need at least a copy of your deed.

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IMPORTANT DATES

1) (____/____/____) *Date to Get Mortgage Commitment Letter*- Date is in the Contract

2) (____/____/____) *Rate Lock Expiration Date*- Arranged with Lender

3) (____/____/____) *Approximate Closing Date*- Date is in the Contract

4) (____/____/____) *Actual Closing Date*- Arranged with Attorney

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Hiring Qualified Professionals

Choosing the right professionals to represent and guide you is very important.

Attorney:

- **Should perform work in a timely manner**
 - ✓ Many Real Estate deals can be lost if the Attorney does not review Contracts promptly.
 - 👉 **Minimum:** Contracts prepared or reviewed within 3 business days
 - 👉 **Better:** Contracts prepared or reviewed within 2 business days
 - 👉 **Cory A. Levine, P.C.:** Contracts prepared or reviewed within 1 business day
- **Should be an experienced Real Estate Attorney**
 - ✓ An experienced Real Estate Attorney will be best at resolving important issues amicably, creating solutions quickly and protecting clients.
 - ✓ An experienced Real Estate Attorney's familiarity with the some of the other professionals involved (including the other Attorneys, Lender and Real Estate Agents) is also very helpful.
 - ✓ An Attorney who is very active will probably have the strongest relationships.
 - 👉 **Minimum:** Experienced in 1,000 real estate closings
 - 👉 **Better:** Experienced in 2,000 real estate closings
 - 👉 **Cory A. Levine, Esq.:** Experienced in 6,000+ real estate closings
- **Should be a "Transactional" Attorney**
 - ✓ A Transaction Attorney will be more focused on amicable solutions. Avoid an Attorney who seems litigious or whose primary source of income is from litigation.
 - 👉 **Cory A. Levine, P.C.:** A "Transactional" law firm
- **Should discuss issues prior to your appointment to sign Contracts**
 - ✓ This way time is saved and you don't have to make another appointment if there are issues that the attorney needs to examine. New or forgotten questions can still be asked later but it is best to resolve as much as possible early.
 - 👉 **Cory A. Levine, Esq.:** Encourages that all issues be discussed promptly.

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- **Should be properly staffed with professionals who are familiar with Real Estate**
 - ✓ Ask if the staff is familiar with Real Estate. Avoid Attorneys who seem understaffed or whose staff will be unable to answer many of your Real Estate questions.
 - ↳ *Cory A. Levine, P.C.*- The entire support staff does Real Estate

- **Should send a copy of the Fully Signed Contracts to your Lender and Real Estate Agent**
 - ✓ A Real Estate Transaction should be a "team" effort and your Attorney should be willing to work with all of your professionals.
 - ✓ The Real Estate Agent is usually instrumental in initiating and structuring the transaction. Having a copy of the Contract helps your Agent to assist you throughout the transaction.
 - ✓ The Lender will need a copy of the Contracts for your Mortgage Application. This will save time and extra work.
 - ↳ *Cory A. Levine, P.C.*: Sends copies of fully signed Contracts to Mortgage Lenders and Real Estate Agents promptly

- **Should order a Title Search from a local Title Company immediately**
 - ✓ A local Title Company will be more familiar with the nuances of the area that you are buying in or issues that might not appear in a customary Title Search.
 - ✓ Some Attorneys might wait until you have written Mortgage approval, but then you are 4-6 weeks behind.
 - ↳ *Cory A. Levine, P.C.*: Orders a Title Search from a local Title Company when fully signed Contracts are received.

- **Should be comfortable and work well with Mortgage Lenders**
 - ✓ This will allow the transaction to go smoother. Additionally, such an attorney might help avoid unnecessary "red flags" in your Contracts. An Attorney who also customarily represents Lenders as well will be even more familiar with the process involved.
 - ↳ *Cory A. Levine, P.C.*: Has represented over 30 Lenders.

- **Should encourage you to ask questions and returns phone calls promptly**
 - ✓ You should not be expected to be an expert in this field.
 - ✓ The right professional will recognize that your questions will lead to a smoother transaction.
 - ↳ *Cory A. Levine, P.C.*: Strongly encourages questions and returns calls promptly.

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Mortgage Lender:

- **Your Loan Officer (not just the Lender) should be active in the area**
 - ✓ The biggest problems in most transactions are related to the Loan Officers who are not active in the local area.
 - ✓ Locally active Loan Officers are generally more accountable and responsive because they depend on the local area for their business and their familiarity leads to fewer mistakes.
 - 👉 **Minimum:** Experienced in 150 loans in the local area
 - 👉 **Better:** Experienced in 300 loans in the local area
- **Avoid Internet Lenders-** There have had many problems with these types of Lenders
- **Should be familiar with the area of the subject property**
- **Should encourage you to ask questions**
- **Should return phone calls promptly**

Insp^{er}ector: Will point out potential problems in the premises.

- **Should be experienced with the area that you are interested in**
 - ✓ Every town has different nuances and code requirements. In some areas, certain issues can be a concern whereas they might not be in other areas.
 - ✓ Home inspections are not an exact science so experience goes a long way.
 - 👉 **Minimum:** Experienced in 150 inspections in the local area
 - 👉 **Better:** Experienced in 300 inspections in the local area
- **Should encourage you to ask questions and provide advise during inspection**
 - ✓ There is a lot that you can learn about the home if you ask questions. The Inspector could also provide advise as to how much of a life span certain items have and what to be careful of in the future.

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