

# THE ROLES AND RESPONSIBILITIES OF THE KEY PLAYERS IN THE DEVELOPMENT OF HOUSING ON WAQF LAND IN MALAYSIA

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**Abstract:** *Waqf land has huge potential in Islamic institutions in terms of economic and social benefits. One of the strategic approaches that have been taken to promote the development of waqf land is through providing waqf housing. Khairuddin et.al. (2017) has proposed procurement models for the development of waqf housing in Malaysia. As an extension of that, this paper aims to highlight the key player and their roles and responsibilities in the development of housing on waqf land in Malaysia. Data were gathered from the secondary resources through desk study and interviews with the representative of the key players involved in the development of housing on waqf land in Malaysia. As a result of this study, it reflects that every key player has different roles and responsibilities in the development of housing on waqf land. Hence, the development of waqf land can achieve a degree of consistency in the key players' roles and responsibilities and help promote the development project of waqf land in Malaysia.*

**Keywords:** *Waqf Land; Housing Development; Key Players; Roles and Responsibilities*

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## Introduction

*Waqf* or its plural *awqaf*, literally means "holding, confinement, or prohibition, but technically means "holding certain property and preserving it for the confined benefit of certain philanthropy and prohibiting any use or disposition of it outside that specific objective" (Kahf, 2015).

History has also recorded that among the earliest *waqf* properties in Islam are the Quba' Mosque and the Prophet's Mosque in Medina (Hayatullah et al., 2021). Both mosques have been fully utilized by the Prophet PBUH to spread the teachings of Islam throughout the Arabian Peninsula.

Malaysia has more than 30,000 hectares of *waqf* land (Mohd Arif et al., 2021). More than 85% of *waqf* lands in Malaysia are undeveloped, unproductive, and not properly utilized (The Sun,

2019; Wan Nazjmi et al., 2021). However, only 13% of Malaysia's *waqf* land has been developed (Syukqran & Rashid, 2020). To narrow this gap, the improvement of innovative mechanisms for the current *waqf* cooperative housing model has been proposed, which provides affordable housing solutions for low- and middle-income earners while also optimizing the use of *waqf* lands (Syukqran & Rashid, 2020). Five (5)<sup>1</sup> key aspects in the conceptual framework were proposed which parties involved or key players are one of them. However, Syukqran and Rashid (2020) just briefly indicate the roles and responsibilities of *Majlis Agama Islam Negeri* (MAIN), Islamic Financial Institution (IFI), and *Zakat* Institutions. It does not highlight the roles and responsibilities of a private company as a developer and financier for the development project on *waqf* land.

Khairuddin et al.,(2017) have proposed Public-Private-Partnership<sup>2</sup> (PPP) as one of the financing modes for *waqf* land development of housing on *waqf* land. Other than the present models, PPP could be an additional option for providing affordable housing for Malaysian Muslims and their families, as well as those in need (Khairuddin et al., 2017). However, the study has a gap in defining the key players with their roles and responsibilities. Nevertheless, Azman et al, (2018) have conducted a study on the application of the BOT mode of finance for the development of *waqf* land. The study highlighted the roles and responsibilities of each key player in the BOT mode of finance, including the private company as the financier, developer, and operator (Azman & Saidatolakma, 2018). Notwithstanding, this study was conducted for the development of the commercial project on *waqf* land.

The use of *waqf* land for the development project is a different methodology from the conventional project where the land cannot be transferred, and it cannot be collateral for any transaction. The reason why huge *waqf* land is undeveloped is because of the knowledge and management skills of *waqf* (Noor Aimi et al., 2014). Hence, it is crucial to appoint the right key players and understand what their roles and responsibilities are in developing housing on *waqf* land.

Therefore, this paper aims to highlight the key players and their roles and responsibilities in the development of housing on *waqf* land in Malaysia. Data were collected through desk study by examining three *waqf* housing projects, namely; *Waqf Setee Aishah* and *Khan Muhammad* in Penang, and *Housing Projects PWS-UME* in Selangor. To complement the information gathered from the published literature, interviews with the representatives of the key players involved in the development of housing on *waqf* land were conducted. Data collected were then synthesized and summarized.

## Research Methodology

This paper is an extension of Khairuddin et.al. (2017) study, in which its proposed procurement models for the development of *waqf* housing in Malaysia. This paper will focus on three (3) *waqf* housing projects as an extension of that study by highlighting the key players, their roles, and responsibilities in the development of housing on *waqf* land in Malaysia. Highlighting the key players, their roles, and responsibilities helps to achieve consistency in managing the development of *waqf* land, promotes the productivity of project management, and contributes

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<sup>1</sup> Concept, Sources, Parties Involved, Structures and Processes and Significant Impacts

<sup>2</sup> Public-Private-Partnership (PPPs) are a type of partnership between public authorities and private company. Principal objectives of this partnership include the funding, construction, renovation, and operation of infrastructure, as well as the provision of a service.

to more development of *waqf* land with systematic and organized key players. This paper makes use of secondary data from three (3) *waqf* housing projects in Malaysia. The data are used to identify and highlight the key players in the development of *waqf* housing, as well as their roles and responsibilities. *Waqf* Setee Aishah, Khan Muhammad *waqf* land, and Housing Projects PWS-UME are the *waqf* housing projects discussed in this paper.

### Literature Review

Housing is an important component of economic development, and it is the policy of every government to provide housing to the people, including Malaysia (Farhana & Azman, 2019). In Malaysia, studies on the project housing needs and supply are often conducted to identify the housing needs of Malaysians. However, house prices in Malaysia recorded a faster increase than household income growth

Based on the current median house price, most Malaysians cannot afford to buy a house (Jabatan Perumahan Negara, 2019). Among the factors that contribute to housing inability among Malaysians is because housing supply does not meet demand due to mismatched supply and demand, new housing supply is more focused on high-priced housing types and the rate of house price increase exceeds the rate of increase in household income.

Among the efforts to reduce the cost of housing to ensure that house prices can be reduced to a more affordable level for needy Muslims is to reduce the cost of land. This is in view of the extremely high cost of land in the city center and its environs. Therefore, the development of houses on *waqf* land is a method to help with housing issues in Malaysia in line with the objective of *waqf* legislation that promotes goodness and welfare for Muslims (Farhana & Azman, 2019). The development of housing on *waqf* land is an alternative to providing the lower price of housing and *waqf* land can be utilized for the benefited purposes.

### Roles and Responsibilities of the Key Players

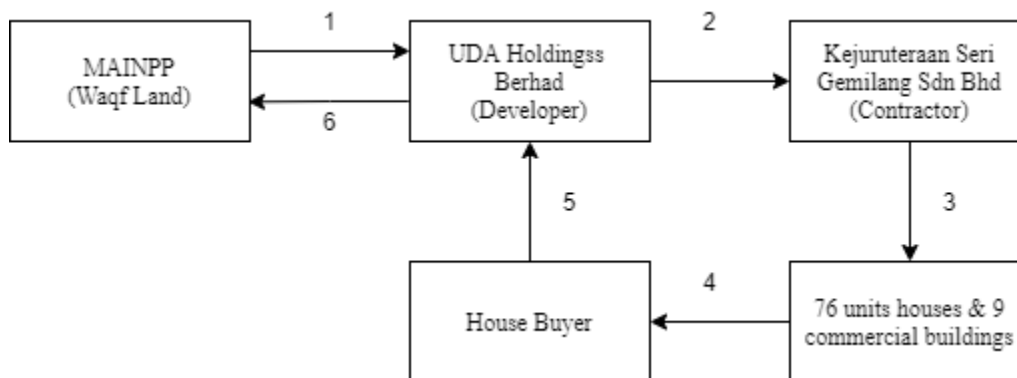
#### 1. *Waqf* Setee Aishah, MAINPP

MAINPP and the UDA Development Berhad (UDA) developed a multi-purpose *waqf* development project using Joint-Venture (JV) procurement model. Commercial and residential projects that can only be used for Muslims in connection with strategic development involving MAINPP as the land trustee and developer, UDA through its subsidiary, UDA Land (North) Sdn. Bhd.

The land size was 9.86 acres, located at Bandar Seberang Jaya in the junction between the North-South highway and Butterworth to Kulim. Originally it was a paddy field, however, on 30 September 1901, Ms. Setee Aishah binti Haji Mahmood gave the land for *waqf* purposes. The project consisted of 76 units of 2-storey terraced houses and 9 units of 3-storey of business commercial buildings with 27 lots of stores and offices.

UDA then chose a Kejuruteraan Seri Gemilang Sdn. Bhd as the contractor must perform the project in accordance with the contract. The first phase took 24 months, while the second phase lasted 36 months. The development of the *waqf* land involved cost a gross value of RM24 million. In return for the strategic collaboration, MAINPP agreed to receive a business building worth RM10.9 million as agreed jointly with the developer (Syukqran & Rashid, 2020).

This development benefits MAINPP through the rental of nine shops amounting to RM56,000.00 per month. The deal stated that MAINPP obtains 9 business units with 30% profit sharing in properties sold with UDA 70% of the *musyarakah* profit of RM600,000 (Baihaki et al., 2020). This amount has exceeded the amount set aside to be distributed to *mauquf alayh* as intended by the *waqif*. This surplus is used for sponsorship of funds or invested to purchase other *waqf* buildings. The development of this *waqf* which has succeeded in achieving the target of MAINPP has approved the second phase development project on this *waqf* land at a cost of 200 million with UDA Land.



**Figure 1: The Framework of Property Development of waqf Setee Aishah (Hydzulkifli & Asmak, 2012)**

1. MAINPP as trustee of the *waqf* land in Penang, appoint UDA to develop the project.
2. UDA appoint Kejuruteraan Seri Gemilang Sdn. Bhd as contractor to construct the project.
3. Kejuruteraan Seri Gemilang Sdn. Bhd. construct and complete the project as requested by UDA.
4. The house is then sold to the Home Buyer under the leasehold agreement.
5. The buyer make the purchase from UDA.
6. UDA distributed 30% of profit from the sold property to MAINPP.

**Table 1: The Roles and Responsibilities for the Development of waqf Setee Aishah, MAINPP**

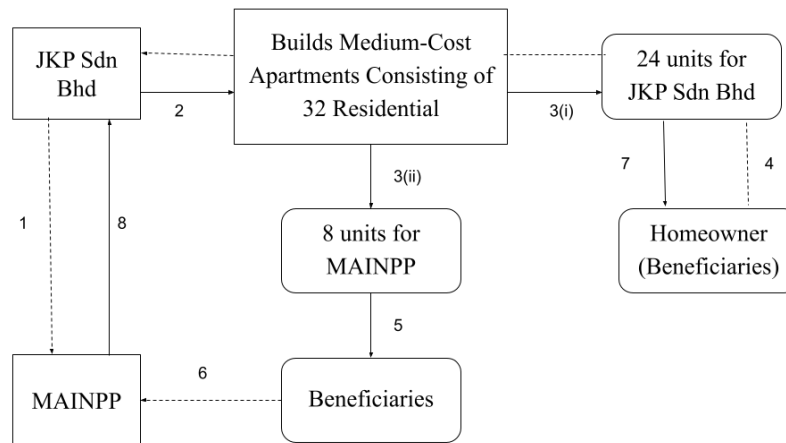
Key Players	Roles	Responsibilities
MAINPP	Trustee of <i>waqf</i> land in Penang	<ul style="list-style-type: none"> <li>• <i>Nazir</i> and owner of <i>waqf</i> land in Penang.</li> <li>• Issue the grant to allow UDA to finance and develop the project</li> </ul>
UDA Holdings Berhad (UDA)	Project Developer	<ul style="list-style-type: none"> <li>• Financier and developer of the project</li> <li>• Sold the property to the home buyers</li> <li>• Share the profit from the house sold with the rate of 70% for UDA and 30% for MAINPP</li> </ul>
Kejuruteraan Seri Gemilang Sdn Bhd	Project Contractor	<ul style="list-style-type: none"> <li>• Construct and complete the project</li> </ul>
End Users	Home Buyer	<ul style="list-style-type: none"> <li>• Purchase the house from UDA</li> </ul>
Bank	Financial Assistant	<ul style="list-style-type: none"> <li>• Provide Islamic financing to the end user</li> </ul>

## 2. Khan Muhammad *waqf* Land

Khan Muhammad's *waqf* land in Georgetown, Penang, involved MAINPP's JV with JKP Sdn Bhd (Surita Hartini et al., 2021). The development that has been completed in the Pangsapuri *waqf* Khan Mohamed is a medium-cost apartment. The *waqf* apartment is organized into four stories and has a total occupancy of 32 units, each of which is 73.51 square meters in size (Farra Munna et al., 2016). MAINPP and the JKP have issued three leases per unit, with each lease having a period of 33 years and being issued for each of the units of the *waqf* flats. The lease price for each residential unit was about RM112,700.00. The JV agreement signed by the JKP and MAINPP provides that the residential units of the *waqf* apartments are distributed a 24-units to the JKP and an additional 8 units to MAINPP. MAINPP residential units are rented for RM500 per month, bringing *waqf* Khan Mohamed's total monthly income to RM4,000 per month.

Figure 3 illustrates the method of implementing Khan Mohamed's *waqf* land development between the MAINPP and the JKP. It was discovered that the implementation of the *musyarakah* method in the development of Khan Mohammed's *waqf* property resulted in the productivity of the *waqf* land in the way that it should have been. If the *waqf* Khan Mohamed property had been reviewed prior to the construction of this medium-cost apartment, it would have become a residential rental site for five families, with a monthly rate of RM11 for the MAINPP as the only tenant (Surita Hartini & Zakaria, 2009). Aside from that, there are squatter housings on the grounds of this *waqf* as well. The success of this initiative has helped more Muslims than ever before, whereas it had previously only benefited a small number of people in the community.

The *waqf* land has been effectively developed in accordance with the wishes of the *waqif*. However, when comparing the two developments, the Seetee Aishah *waqf* land is seen to have greater potential for future development because there is still a significant amount of undeveloped land available, whereas the Khan Mohamed *waqf* lands have been completely utilized for the purpose of the construction of the apartments. In contrast, the revenues or benefits gained from the rental proceeds can be used to expand the *waqf* assets by purchasing additional properties, whether they are land or buildings for rent or lease, and putting them into operation. This scenario allows the *waqf* property to be kept and its benefits to be preserved. Although the impact of Khan Mohamed *waqf* land has been somewhat smaller than that of Seetee Aisah *waqf* land, it is still possible to expand and extend the benefits of *waqf* property to the *mauquf'alaih* through further development and expansion of *waqf* property. From an economic standpoint, it can be noted that the *waqf* revenue has increased from RM55.00 per month to RM4,000.00 per month (Surita Hartini & Zakaria, 2009). Following the expiration of the JKP lease, the entire site will be converted into *waqf* land, which will be managed by the MAINPP as the *mutawalli*. With the increase in *waqf* revenue, it is obvious that it will increase in value as well as the ability to operate the *waqf* property, and this will be accomplished through an increase in benefit distribution. As a result of its efforts, the Muslim community has received a reasonable price in comparison to the market price for a real estate development project



**Figure 2: The Roles and Responsibilities for the Development Muhammad Khan waqf Land**

Notes:

1. The signing of a development agreement between MAINPP and JKP to develop the *waqf* land of Khan Muhammad.
2. JKP constructs 32 units of the medium-cost apartments with its own source of finance.
3. The residential units are divided into two 24 units for the JKP and 8 units for the MAINPP.
4. JKP sold 24 units of the apartment to the home buyer at a lower price.
5. 8 units rented out by MAINPP to the beneficiary.
6. Rental payments belong to MAINPP, and they will be deposited into the *waqf* fund of MAINPP, to be used for maintenance and other *waqf* land development.
7. The tenant pays the lease to JKP.
8. JKP transferred to MAINPP the payment for the Khan Muhammad *waqf* land.

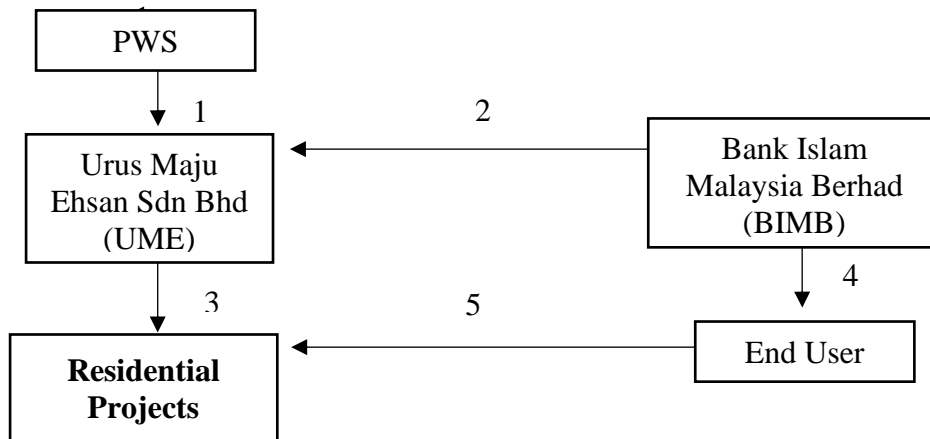
**Table 2: The Roles and Responsibilities for the Development of Muhammad Khan Waqf Land**

Key Players	Roles	Responsibilities
MAINPP	Trustee of <i>waqf</i> land in Penang	<ul style="list-style-type: none"> <li>• <i>Nazir</i> and owner of <i>waqf</i> land in Penang.</li> <li>• Form a Joint Venture with JKP Sdn Bhd.</li> <li>• Finance the project through <i>musyarakah</i> contract.</li> <li>• Rented out 8 units of apartments.</li> </ul>
JKP Sdn Bhd	Project Developer	<ul style="list-style-type: none"> <li>• Form a Joint Venture with MAINPP</li> <li>• Financier and developer of the project</li> <li>• Finance the project through <i>musyarakah</i> contract.</li> <li>• Sold 24 units of apartments.</li> <li>• Collect the payment from the tenant and handed over to MAINPP.</li> </ul>
End User	Tenant of the project	<ul style="list-style-type: none"> <li>• Pay the lease to JKP Sdn Bhd</li> </ul>
	Home Buyer	<ul style="list-style-type: none"> <li>• Purchase the apartment from JKP Sdn Bhd</li> </ul>

### 3. Housing Projects PWS-UME

Five *waqf* property development projects implemented by *Majlis Agama Islam Selangor* (MAIS) offer prices 20% lower than the current market price (Selangorkini, 2016). The projects involved are UME Teratai Avenue, UME Ehsan Residence as well as UME Impian Taman Desa Kencana, UME Idaman Taman Desa Kencana and UME Germersik, Taman Meru Makmur in Klang with an estimated cost of RM135 million.

The project has received permission from the State Fatwa Council with its implementation in accordance with the concept of *waqf* including a 99-year lease. The three important elements in the concept of *waqf* are that *waqf* property cannot be sold, pledged and inherited. That is why no commercial project is carried out by *Urus Maju Ehsan* (UME) and in this matter there is also no sale and purchase agreement where the lease system is used to ensure that the *waqf* holding remains the property of the *waqf* entrusted to MAIS. The project involved is the construction of housing and shop lots with the concept of ‘*al-Ijarah*’ and ‘*tawarruq*’ with an estimated house price between RM250,000 to RM650,000 depending on the location.



**Figure 1: The Framework of Housing Projects PWS-UME**

Notes:

1. PWS appoint *Urus Maju Ehsan Sdn. Bhd. (UME)* to execute the construction project.
2. *Bank Islam Malaysia Berhad (BIMB)* provides *tawarruq* financing, to finance the development project.
3. UME construct and complete the project.
4. BIMB offer *Al-Waqf House Financing-I* of each apartment, business unit and bazaar to the end user.
5. End users own the right to occupy the *waqf* property.

**Table 3: The Roles and Responsibilities for the Development of Housing Projects PWS-UME**

Key Players	Roles	Responsibilities
MAIS	Trustee of <i>waqf</i> land in Selangor	<ul style="list-style-type: none"> <li>• <i>Nazir</i> and owner of <i>waqf</i> land in Selangor</li> <li>• Issue the grant to allow PWS to carry out the development project on <i>waqf</i> land in Selangor</li> </ul>
<i>Perbadanan Wakaf Selangor</i> (PWS)	Project Developer Subsidiary of MAIS	<ul style="list-style-type: none"> <li>• Giving advice to MAIS on the development of <i>waqf</i> land in Selangor.</li> <li>• Develop, adopt and implement policies, methods and measures regarding the development of <i>waqf</i> property and products.</li> </ul>
Bank Islam Malaysia Berhad (BIMB)	Financial Assistant	<ul style="list-style-type: none"> <li>• Provide financing to UME to develop the project through <i>tawarruq</i><sup>3</sup> financing</li> <li>• Provide Islamic financing to the home buyers</li> </ul>
Urus Maju Ehsan (M) Sdn Bhd (UME)	Project Contractor Subsidiary of PWS	<ul style="list-style-type: none"> <li>• Construct and complete the project</li> </ul>
End Users	Home Buyer	<ul style="list-style-type: none"> <li>• Purchase the house from the bank</li> </ul>

#### Synthesis of The Key Players and Their Roles and Responsibilities

The key players and their roles and responsibilities in the three housing projects described herein were synthesized and summarized as follows:

**Table 4: Synthesis and Summary of the Roles and Responsibilities for the Development of Waqf Housing**

Key Players	Roles	Responsibilities
<b>MAIN</b> - <i>Majlis Agama Islam Pulau Pinang</i> (MAIPP) - <i>Majlis Agama Islam Selangor</i> (MAIS)	Trustee of <i>waqf</i> land in the State	<ul style="list-style-type: none"> <li>• <i>Nazir</i> and owner of <i>waqf</i> land in the State.</li> <li>• Issue the grant to the Project Developer to finance and develop the project.</li> <li>• Form a Joint Venture with a Development Company.</li> <li>• Finance the project through the <i>musyarakah</i> contract.</li> </ul>
<b>Development Company</b> - UDA Holdings Berhad - <i>Perbadanan Wakaf Selangor</i> (PWS) - JKP Sdn Bhd	Project Developer	<ul style="list-style-type: none"> <li>• Financier and developer of the project.</li> <li>• Sold the property to the home buyers.</li> <li>• Share the profit from the house sold with MAIN.</li> <li>• Form a Joint Venture with MAIN.</li> <li>• Finance the project through the <i>musyarakah</i> contract.</li> <li>• Collect the payment from the tenant and handed over to MAIN.</li> </ul>
<b>Construction Company</b> - Kejuruteraan Seri Gemilang Sdn Bhd - Urus Maju Ehsan (M) Sdn Bhd (UME)	Project Contractor	<ul style="list-style-type: none"> <li>• Construct and complete the project</li> </ul>

<sup>3</sup> Tawarruq includes two sale and purchase agreements. In the first, an asset is sold on a deferred basis by a seller to a buyer. The same asset will then be sold by the initial sale's buyer to a third party on a cash and spot basis.



<b>Financial Institution</b> - Bank Islam Malaysia Berhad (BIMB)	Financial Assistant	<ul style="list-style-type: none"> <li>• Provide financing to the home buyers to purchase the house</li> <li>• Provide financing to the Development Company to develop the project through <i>tawarruq</i> financing</li> <li>• Provide Islamic financing to the home buyers</li> </ul>
<b>End User</b> - Public User - Beneficiary	Tenant of the project	<ul style="list-style-type: none"> <li>• Pay the lease to the developer</li> </ul>
	Home Buyer	<ul style="list-style-type: none"> <li>• Purchase the house from the developer</li> </ul>

Table 4 represents the synthesis and summary of the roles and responsibilities of the key players in the development of housing on *waqf* land. Accordingly, MAIN as a sole trustee, *Nazir* and the landowner of *waqf* land issued permission to the Development Company as a financier and developer of the project. The contract between MAIN and the Development Company is bonded through JV and *musyarakah* Islamic contract where MAIN provides the *waqf* land and the Development Company provides finance to construct and complete the project. The completed *waqf* housing project is then sold to the user through a leasehold contract as *waqf* land remains to belong to MAIN and it is irrevocable, perpetual, and inalienable. Financial institutions provide financing for the development project through *tawarruq* contract which is two sale purchase agreements involve. Home financing should only be applicable to Islamic financing with Islamic financial institutions. According to Dr. Mohamad Noor (2023), housing financing for *waqf* housing are not applicable to conventional financing. It is because conventional financing requires the asset to be the collateral of the financing, while *waqf* asset is not permitted to use collateral (Muhammad Imran & Nur Harena, 2022). As a result, a few Muslims received a benefit from the project and *waqf* land can be utilized for housing.

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