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Construction and real estate: innovations of the legal regulation system



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The article presents an overview of the main changes in the legal regulation of public relations in the field of real estate management and housing and communal complex, state registration of real estate, state cadastral valuation, regulation of land relations, construction and urban planning from January 1, 2023 to March 31, 2023. Changes include: the entry into force of amendments to the Law on State Registration of Real Estate; the introduction of regulations on the state cadastral assessment of buildings, premises, structures, construction in progress, parking spaces in 2023; the introduction of regulations aimed at extending the features of regulation of land relations; the introduction of methods for determining the estimated cost of construction using federal unit rates and their individual components; establishment of the procedure for the formation and maintenance of the information resource of the federal targeted investment program; determination of the procedure for the implementation of federal state control (supervision) in the field of safe use and maintenance of hazardous technical devices of buildings and structures; exclusion from the list of acts that are not covered by the mechanism of the “regulatory guillotine” of a number of regulatory legal acts; determination of the procedure for conducting electronic auctions for sale of a land plot in state or municipal ownership; introduction of the Methodology for determining the amount of payment for the creation of an artificial land plot; change in the conditions for providing personal data of real estate owners to third parties; regulation of certain issues in the field of urban development; change in the procedure for organizing and conducting non-governmental expertise of project documentation and engineering survey results; introduction of Rules for connecting (technological connection) of capital construction facilities to telecommunication networks; changing the Rules for establishing and determining the standards for the consumption of utilities and the standards for the consumption of communal resources consumed during the use and maintenance of common property in an apartment building; clarifying certain provisions concerning the overhaul of common property in an apartment building; innovations in the calculation of tariffs in the field of water supply and sanitation; the introduction of a new federal assessment standard “Assessment of intellectual property and intangible assets (FAS XI)”.
Keywords: amendments, additions, legislation, construction supervision, forensic construction and technical expertise, forensic land management expertise, state registration of real estate, participants in shared construction, estimated cost of construction, apartment building, market value, utilities, preferential mortgage, “garage amnesty”, urban planning
Note. Official website of the State Duma of the Federal Assembly of the Russian Federation¹; Official Internet Portal of Legal Information²; Rossiyskaya Gazeta Internet portal³; ConsultantPlus legal reference system⁴; Legal Information portal “Garant.ru”⁵; Information portal “RBC Real Estate”⁶; Official website of the Government of Russia⁷; Official website of the Ministry of Construction and Housing and Communal Services of the Russian Federation⁸; Official website of the Ministry of Energy of Russia⁹; Official website of the Federal State Budgetary Institution “Rosreestr”¹⁰.

Federal Law of April 30, 2021 No. 120-FZ [1]; Resolutions of the Government of the Russian Federation of December 9, 2021 No. 2241 [2] and of August 1, 2022 No. 1362 [3]; Orders of the Federal Register of June 1, 2021 No. P/0241 [4], of August 2, 2021 No. P/0328 [5], of September 28, 2021 No. P/0437 [6] and No. P/0439 [7], of October 8, 2021 No. P/0458 [8], of November 8, 2021 No. P/0501 [9] and of December 3, 2021 No. P/0568 [10]; Letter of Rosreestr of July 20, 2021 No. 18-02191/21 [11], Letter of the Federal Tax Service of Russia of September 14, 2022 No. BS-4-21/12179@ [12]

Since January 1, 2023, amendments to the Law on State Registration of Real Estate have come into force.

In particular, it is established that applications can be submitted through the personal account without signing with an enhanced qualified electronic signature:

- on the impossibility of registering the transfer, termination, restriction of the right and encumbrance of the real estate object without the personal participation of the rightholder (his legal representative);
- about entering into the EGRN information about the e-mail address or postal address at which you can contact the person whose right to the real estate object is registered, as well as the person in whose favor the restriction of the right and encumbrance of the object is registered.

1 State Duma of the Federal Assembly of the Russian Federation. URL: <http://duma.gov.ru/>

2 The official Internet portal of legal information. URL: <http://www.pravo.gov.ru>

3 Rossiyskaya Gazeta. URL: <https://rg.ru/>

4 ConsultantPlus. URL: <https://www.consultant.ru/>

5 NPP “GARANT-SERVICE”. URL: <https://www.garant.ru/>

6 РБК Недвижимость. URL: <https://realty.rbc.ru/>

7 Government of Russia. URL: <http://government.ru/news/>

8 Ministry of Construction and Housing and Communal Services of the Russian Federation. URL: <https://www.minstroyrf.gov.ru/>

9 Ministry of Energy of Russia. URL: <https://minenergo.gov.ru/>

10 Rosreestr. URL: <https://kadastr.ru/about/>

The list of building assignments has been adjusted (the designation “residential building” has been added, “residential” and “residential structure” have been excluded).

The EGRN will include lists of coordinates of geodetic base points in local coordinate systems established in relation to cadastral districts.

A number of additional information about the real estate object will be entered into the real estate cadastre (for example, about the decision to withdraw a land plot and (or) a real estate object located on it for state or municipal needs).

The register of boundaries will include a list of types of permitted use of capital construction facilities, the maximum size of land plots and the maximum parameters of permitted construction, reconstruction of capital construction facilities. Also, information on the reservation of land for state use will be entered in the register of borders.

It was clarified that it is possible to submit an application for state cadastral registration and state registration of rights, among other things, through regional portals of public services (on the basis of agreements concluded by the state authority of the subject of the Russian Federation and Rosreestr) or a personal account on the official website of Rosreestr.

State authorities and local self-government bodies will be obliged to send documents to the registration authority for entering information into the EGRN in case they make decisions on the seizure of a land plot, immovable property objects located on it for state registration and on the reservation of land for state registration (on the cancellation of such a decision).

Federal Law No. 269-FZ of July 31, 2020 [13]; Rosreestr Order No. P/0240 of June 22, 2022 [14]; Rosreestr information

In 2023, in all subjects of the Russian Federation, a state cadastral assessment of buildings, premises, structures, objects of unfinished construction, parking spaces should be carried out without taking into account restrictions on the frequency of state cadastral assessment.

In the future, the next state cadastral assessment of buildings, premises, structures, objects of unfinished construction, parking spaces will be carried out in 4 years from the year of the last state cadastral assessment, and in cities of federal significance, if the supreme executive body of the state authority of the subject of the Russian Federation makes a corresponding decision in 2 years.

Decree of the Government of the Russian Federation No. 2536 of December 30, 2022 [15]

Until the end of 2023, the validity of the peculiarities of land relations regulation has been extended. It is allowed to conclude a contract of exchange of a land plot in state or municipal ownership for a land plot in private ownership, if such a land plot in private ownership is necessary for the placement of social infrastructure facilities; as well as the sale without bidding of a land plot that is in state or municipal ownership, and a land plot, state ownership of which is not delimited, intended for recreation (recreation), production activities, industrial needs.

Order of the Ministry of Construction of Russia of August 8, 2022 No. 648/pr [16]

From January 1, 2023, the methodology for determining the estimated cost of construction using federal unit prices and their individual components will be put into effect.

The methodology establishes the procedure for determining the estimated cost of construction, reconstruction, capital repairs, demolition of capital construction facilities, works on the preservation of cultural heritage objects (historical and cultural monuments) of the peoples of the Russian Federation using federal unit rates and their individual components by the basic index method.

Order of the Ministry of Construction of Russia of October 18, 2022 No. 865/pr [17]

Since January 22, 2023, the procedure for the formation and maintenance of the information resource of the federal targeted investment program has been established.

The formation and maintenance of an information resource is carried out on the basis of information about capital construction objects, events (enlarged investment projects), real estate objects.

In addition, the form of the passport of the investment project is given, as well as the forms of submission of information to the Ministry of Construction of Russia by the main managers of federal budget funds and the board of the Military-Industrial Commission of the Russian Federation.

Federal Law No. 548-FZ of December 19, 2022 [18]

On March 1, 2023, the procedure for the implementation of federal state control (supervision) in the field of safe use and maintenance of hazardous technical devices of buildings and structures was determined.

Until the date of entry into force of the federal law establishing legal regulation in the field of safe use and maintenance of elevators, lifting platforms for the disabled, passenger conveyors (moving pedestrian paths), escalators, with the exception of escalators in subways, federal state control (supervision) in the field of their safe use and maintenance is carried out by the federal executive authority authorized by the Government of the Russian Federation; at facilities (organizations) subordinate to federal executive authorities in the field of defense, security, state protection, foreign intelligence, mobilization training and mobilization, execution of punishments — by units of these federal executive authorities. The subject of control (supervision) has been determined.

Decree of the Government of the Russian Federation of December 31, 2020 No. 2467 [19]

From March 1, 2023, a number of acts are excluded from the list of acts that are not covered by the mechanism of the “regulatory guillotine”.

We are talking about the acts listed in paragraph 11 (1) of the Decree of the Government of the Russian Federation dated December 31, 2020 No. 2467.

Federal Law No. 385-FZ of October 7, 2022 [20]; Information of the Federal Register

Since March 1, 2023, the procedure for conducting electronic auctions for the sale of a land plot owned by the state or municipal property and auctions for the right to conclude a lease agreement for such a land plot has been determined.

An electronic auction is held on an electronic platform by its operator from among the operators of electronic platforms operating in accordance with the legislation on the contract system in the field of procurement.

According to the results of the electronic auction, the land purchase and sale agreement or the land lease agreement is

► concluded in electronic form and signed with an enhanced qualified electronic signature of the parties to such an agreement. Auctions, the decisions on which were made before March 1, 2023, are held according to the old rules.

Order of the Ministry of Natural Resources of Russia of November 28, 2022 No. 824 [21]

Since March 1, 2023, the Methodology for determining the amount of payment for the creation of an artificial land plot has been put into effect.

The amount of payment for the creation of an artificial land plot on a water body that is in federal ownership, or part thereof, is determined on the basis of information from the EGRN on the cadastral value and area of existing land plots that are part of the municipality (municipalities) applied as of January 1 of the year in which the agreement on the creation of an artificial land plot is concluded, within the boundaries of which an artificial land plot will be created.

Federal Law No. 266-FZ of July 14, 2022 [22]; Order of the Federal Register of November 7, 2022 No. P/0427 [23]

From March 1, 2023, personal data of real estate owners will be provided to third parties only with the consent of a citizen.

On the basis of a citizen's application, a corresponding entry will be made in the EGRN. The procedure for making such an entry in the EGRN has been established.

In addition, access to the personal data of the rightholder of the real estate object or the person in whose favor the restriction of the right or encumbrance of the real estate object contained in the EGRN is registered is restricted. Such data may be provided at the request of these persons, at the request of a notary and in other cases expressly established.

Federal Law No. 612-FZ of December 29, 2022 [24]

Since March 1, 2023, certain issues in the field of urban development have been settled.

It is established that the map of urban zoning displays territories within the boundaries of which the requirements for the architectural and urban appearance of capital construction objects are provided. The borders of such territories may not coincide with the borders of territorial zones and may be displayed on a separate map.

The town-planning regulations with respect to land plots and capital construction objects located within the relevant territorial zone will specify the requirements for the architectural and urban appearance of capital construction objects, including requirements for spatial, architectural, stylistic and other characteristics of the capital construction object, which are established by the Government of the Russian Federation, unless otherwise provided.

The architectural and town-planning appearance of the capital construction object is subject to approval by the authorized local government body. Fixed cases that do not require appropriate coordination.

The deadline for the approval of the architectural and town-planning appearance of the capital construction object may not exceed 10 working days.

The deadlines for approving documentation on the planning of the territory, the deadlines for approving the draft master plan, the deadlines for public discussions, public hearings on the draft rules of land use and development, draft master plans of settlements, urban districts are being reduced.

Decree of the Government of the Russian Federation dated October 21, 2022 No. 1884 [25]

Since March 1, 2023, the procedure for organizing and conducting non-governmental expertise of project documentation and engineering survey results has changed.

It is established that the Regulation is valid until March 1, 2029.

The contract between the applicant and the expert organization, concluded in accordance with civil law, must specify the timing of the non-state examination and the amount of the fee for its conduct.

Decree of the Government of the Russian Federation dated July 01, 2022 No. 1196 [26]

Since March 1, 2023, the Rules for Connecting (technological connection) of capital construction facilities to telecommunication networks have been put into effect.

The rules define the procedure for connecting (technological connection) to telecommunication networks of capital construction objects designed, under construction, reconstructed or constructed, reconstructed, but not connected to telecommunication networks.

Decree of the Government of the Russian Federation of September 13, 2022 No. 1598 [27]

The Rules for establishing and determining standards for the consumption of utilities and standards for the consumption of communal resources consumed during the use and maintenance of common property in an apartment building are being changed.

The list of communal resources consumed during the use and maintenance of common property in an apartment building is fixed — cold water, hot water, electricity consumed during the use and maintenance of common property in an apartment building, wastewater disposal for the maintenance of common property in an apartment building.

The concept of "the standard of thermal energy consumption for water heating" is introduced. The procedure for calculating the standards of thermal energy consumption for water heating has been established.

The conditions for the establishment of standards for the consumption of communal resources consumed during the use and maintenance of common property in an apartment building are determined.

The change in the standards for the consumption of utilities and the standards for the consumption of communal resources consumed during the use and maintenance of common property in an apartment building will be carried out, including in the event of the entry into force of a court decision, which established that the standards for the consumption of utilities and the standards for the consumption of communal resources consumed during the use and maintenance of common property in an apartment building, were installed with a violation.

Federal Laws No. 100-FZ of April 16, 2022 [28] and No. 378-FZ of October 7, 2022 [29]

Since March 1, 2023, certain provisions concerning the overhaul of common property in an apartment building have been clarified.

It is established that the act of acceptance of services rendered and work performed on the overhaul of common property in an apartment building must be signed, including by a local

government body and a person who is authorized to act on behalf of the owners of premises in an apartment building (if the overhaul is carried out on the basis of a decision of the owners of premises in this apartment building).

Federal Law No. 5-FZ of January 28, 2022 [30]; Decree of the Government of the Russian Federation No. 988 of May 30, 2022 [31]

When calculating tariffs in the field of water supply and sanitation, the standards of losses of hot, potable, industrial water in centralized water supply systems during its production and transportation should be taken into account.

Accounting for losses of hot, potable, industrial water in centralized water supply systems during its production and transportation by organizations engaged in hot water supply, cold water supply, is carried out in accordance with the procedure in force until March 1, 2023, until the end date of the current long-term regulatory period established for these organizations, or until the end of the concession agreement, unless otherwise specified it is provided by an additional agreement to the concession agreement.

Order of the Ministry of Economic Development of Russia of November 30, 2022 No. 659 [32]

On March 23, 2023, a new federal valuation standard "Valuation of Intellectual Property and Intangible Assets (FAS XI)" will be put into effect.

The new standard supplemented and specified the requirements and procedures established by the general federal valuation standards for the valuation of intellectual property and intangible assets.

The objects covered by the standard are specified (individual objects that are the result of intellectual activity, including those related to intangible assets, rights of use in relation to such objects, a set of such objects, complex objects).

Also, the features of conducting an assessment when pledging an object of assessment are established.

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3. On Amendments to Certain Acts of the Government of the Russian Federation : Resolution of the Government of the Russian Federation of August 1, 2022 No. 1362.
4. On Establishing the Procedure for Maintaining the Unified State Register of Real Estate, the Form of a special Registration Inscription on a Document Expressing the content of the Transaction, the composition of information included in a special Registration Inscription on a document Expressing the content of the Transaction, and the requirements for its completion, as well as the requirements for the format of a special registration inscription on a document Expressing the content of the Transaction, in electronic form, the procedure for changing information about the location of the boundaries of the land plot in the Unified State Register of Real Estate when correcting a registry error : Order of the Federal Register of June 1, 2021 No. P/0241.
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14. On Amendments to the Procedure for Forming and Providing Lists of Real Estate Objects Approved by Rosreestr Order No. P/0283 of August 6, 2020 : Rosreestr Order No. P/0240 of June 22, 2022.

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16. On approval of the Methodology for determining the estimated cost of construction using federal unit prices and their individual components : Order of the Ministry of Construction of the Russian Federation of August 8, 2022 No. 648/pr.

17. On approval of the form of the passport of the investment project, the procedure for the formation and maintenance of the information resource of the federal targeted investment program, as well as some forms of presentation of analytical and summary information on the implementation of the federal targeted investment program and work on capital construction (real estate) : Order of the Ministry of Construction of the Russian Federation of October 18, 2022 No. 865/pr.

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Строительство и недвижимость: новации в законодательстве

В статье представлен обзор основных изменений правового регулирования общественных отношений в сфере управления недвижимостью и жилищно-коммунальным комплексом, государственной регистрации недвижимости, государственной кадастровой оценки, регулирования земельных отношений, строительства и градостроительства с 1 января по 31 марта 2023 года.

К таким изменениям следует относить: вступление в силу изменений в Закон о государственной регистрации недвижимости; введение в действие норм о проведении государственной кадастровой оценки зданий, помещений, сооружений, объектов незавершенного строительства, машино-мест в 2023 году; введение в действие норм, направленных на продление действия особенностей регулирования земельных отношений; введение в действие методики определения сметной стоимости строительства с применением федеральных единичных расценок и их отдельных составляющих; установление порядка формирования и ведения информационного ресурса федеральной адресной инвестиционной программы; определение порядка осуществления федерального государственного контроля (надзора) в области безопасного использования и содержания опасных технических устройств зданий и сооружений; исключение из перечня актов, на которые не распространяется механизм «регуляторной гильотины» ряда нормативно-правовых актов; определение порядка проведения электронных аукционов по продаже земельного участка, находящегося в государственной или муниципальной собственности; введение в действие Методики определения размера платы за создание искусственного земельного участка; изменение условий предоставления персональных данных владельцев недвижимости третьим лицам; регулирование отдельных вопросов в сфере градостроительной деятельности; изменение порядка организации и проведения негосударственной экспертизы проектной документации и результатов инженерных изысканий; введение в действие Правил подключения (технологического присоединения) объектов капитального строительства к сетям электросвязи; изменение Правил установления и определения нормативов потребления коммунальных услуг и нормативов потребления коммунальных

ресурсов, потребляемых при использовании и содержании общего имущества в многоквартирном доме; уточнение отдельных положений, касающихся проведения капремонта общего имущества в многоквартирном доме; нововведения при расчете тарифов в сфере водоснабжения и водоотведения; введение в действие нового федерального стандарта оценки «Оценка интеллектуальной собственности и нематериальных активов (ФСО XI)».

Ключевые слова: изменения, дополнения, законодательство, государственная регистрация недвижимости, государственная кадастровая оценка, земельные отношения, сметная стоимость строительства, инвестиционная программа, государственный контроль (надзор), регуляторная гильотина, электронный аукцион, искусственный земельный участок, ЕГРН, градостроительство, негосударственная экспертиза проектной документации и результатов инженерных изысканий, технологическое присоединение, нормативы потребления коммунальных услуг и ресурсов, капитальный ремонт

Примечание. При составлении обзора использовались информация следующих открытых источников: официальный сайт Государственной Думы ФС РФ¹; официальный интернет-портал правовой информации²; Интернет-портал «Российской газеты»³; справочная правовая система КонсультантПлюс⁴; информационно-правовой портал «Гарант.ру»⁵; информационный портал «РБК Недвижимость»⁶; официальный сайт Правительства России⁷; официальный сайт Министерства строительства и жилищно-коммунального хозяйства Российской Федерации⁸; официальный сайт Минэнерго России⁹; официальный сайт ФГБУ «ФКП Росреестра»¹⁰.

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2. О внесении изменений в постановление Правительства Российской Федерации от 31 декабря 2015 г. № 1532 : Постановление Правительства РФ от 09.12.2021 № 2241.
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4. Об установлении порядка ведения Единого государственного реестра недвижимости, формы специальной регистрационной надписи на документе, выражающем содержание сделки, состава сведений, включаемых в специальную регистрационную надпись на документе, выражающем содержание сделки, и требований к ее заполнению, а также требований к формату специальной регистрационной надписи на документе, выражающем содержание сделки, в электронной форме, порядка изменения в Едином государственном реестре недвижимости сведений о местоположении границ земельного участка при исправлении реестровой ошибки : Приказ Росреестра от 01.06.2021 № П/0241.
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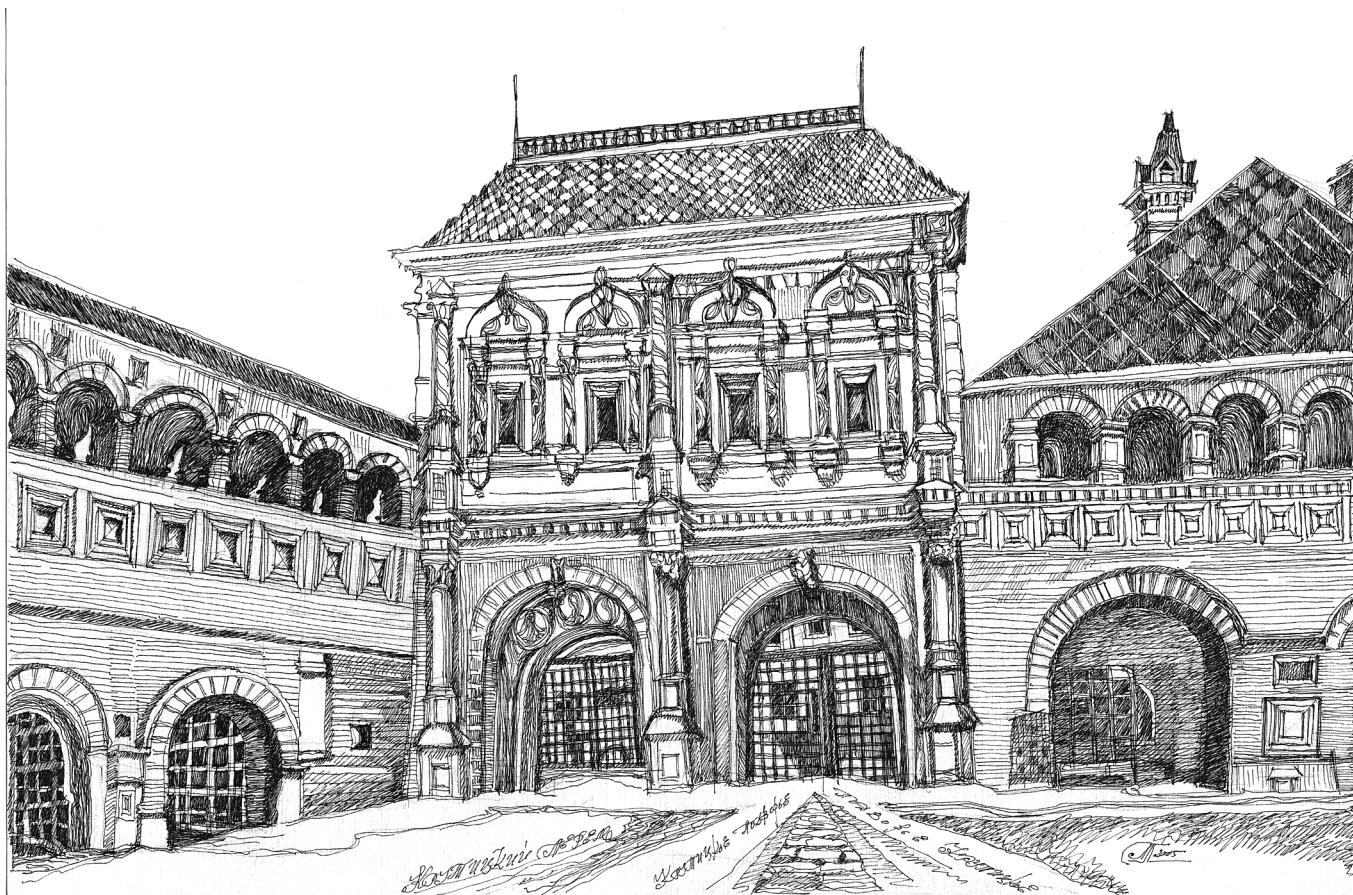
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