CITY COUNCIL MEETING

MARCH 28, 2023

PRESENTATIONS

FISCAL YEAR 2024 MASTER FEE SCHEDULE

ITEM #7

PH 23-015

Master Fee Schedule Amendment to Update Rent Stabilization Annual Fees

March 2, 2023 | Homelessness-Housing Task Force Amy Cole-Bloom, Management Analyst Christina Morales, Housing Division Manager



Presentation Outline





Background

This section provides an overview of feedback from the Homelessness-Housing Task Force.



The HHTF discussed the RRSO fee increase on March 2, 2023

- Homeless-Housing Task Force provided a range of feedback
 - Desire for more information on the implementation and efficacy of the RRSO
 - Concern that not increasing the fee would underfund the program and weaken the protections established by the RRSO
 - Consensus across members that more information on implementation was needed
- Staff provide annual updates to the HHTF on RRSO in September



Rent Stabilization in Hayward

This section provides an overview of the RRSO and other relevant local and state policy related to rent stabilization.



The RRSO stabilizes rents for Covered Rental Units and provides tenant protections for almost all units

Hayward's Residential Rent Stabilization and Tenant Protection Ordinance (RRSO):

- Provides rent increase relief to tenants as allowed under State law
- Establishes a mediation and arbitration program to enforce requirements and to reduce displacement
- Discourages harassment and retaliatory evictions
- Encourages investment in new residential rental property
- Assures landlords receive a fair return on their property and sufficient rental income to cover operational costs

Approximately 54% of all rental units are Covered Rental Units

- For Covered Rental Units, rent increases:
 - > Can only be imposed once every 12 months
 - Can be no more than 5% of the existing monthly rent absent other justifications allowable under the RRSO.
 - Are subject to the RRSO's rent dispute resolution process if they exceed 5%, meaning that tenants can petition a rent increase more than 5% to initiate a review of the increase
- There are additional circumstances in which higher rent increases for covered units are allowed



State law provides some additional protections to renters in Hayward not covered by the RRSO

- The Tenant Protection Act (AB 1482) creates a rent cap of no more than 5% + local CPI or 10%, whichever is lower
- AB 1482 covers almost all rental units except:
 - Units constructed in the last 15 years, on a rolling basis
 - Units otherwise regulated to be affordable
 - A two-unit property if the second unit is owner-occupied
 - Single-family homes not owned by a real estate trust, corporation, or LLC
- The RRSO includes just cause protections that supersede state law



The MRSO stabilizes rents and provides protections for mobilehome space renters

Hayward's Mobilehome Space Rent Stabilization Ordinance (MRSO):

- Establishes a space rent increase limit for mobile home park residents without long-term leases
- Provides a mediation and arbitration program to enforce requirements and to reduce displacement
- Prevents retaliatory evictions
- Has maintained consistent levels of service since 2019, so the current administration fee of \$5 per space continues to cover implementation costs



In 2020, Council adopted the Tenant Relocation Assistance Ordinance to protect displaced tenants under certain conditions

- Adopted in July 2020 to match new State law and provide protections for temporarily displaced tenants
- Requires that landlords pay relocation assistance under certain circumstances when a tenant becomes displaced from their unit

- Does not include imposition of additional administrative fees
- Since adoption, there have been 29 relocation cases and 22 (76%) of them have been due to a Code Enforcement Notice of Violation



The costs of administering the RRSO are reimbursed through the rent stabilization fee

- Section 12-1.17(b):
 - "The costs of administration of this ordinance shall be reimbursed in full to the Rental Housing Program Fund by imposition of a Rent stabilization administration fee chargeable against all Rental Units, including Covered Rental Units."
- The original fees were established in 2019 based on budget analysis and benchmarking research to estimate expenses for implementing the RRSO



RRSO Implementation Accomplishments

The HHTF requested additional information on the implementation of the RRSO to date. This section provides a summary of activities required to implement the RRSO.



Implementing the RRSO requires significant ongoing marketing, outreach, and education activities

Communication

- 200 average inquiries per month
- Annual and ad hoc mailings to landlords and tenants

Education

- Monthly workshops
- City staff and stakeholder education through Eviction Prevention Learning Lab

Community engagement

 Over 50 community events with several local partners



Implementation requires development and maintenance of forms, notices, and processes to facilitate compliance

- Create and maintain over a dozen resources and forms in three languages to facilitate implementation and rent review petition process
- Receipt, review, and tracking of over 2,400 rent increase notices and over 700 termination notices through 2022

- Process 117 petitions for review of rent
- Process 8 capital improvement pass-through petitions covering hundreds of units
- Manage mediation and arbitration for the 40% of petitions that advance to that stage of the process



Implementation also requires ongoing internal infrastructure improvements to meet demand and improve accessibility

- Development and ongoing maintenance of rental unit inventory
- Collaboration with other departments for EnerGov implementation
- Development and ongoing maintenance of Bookings app to allow community members to make appointments online for inperson or phone appointments



RRSO Implementation & Unlawful Detainer Data

This section provides a summary of data illustrating key trends.



Only 121 unlawful detainers filed since first eviction moratorium



Trends in notice submissions align with changes in State law

- 772 notices received through June 2022
 - Before pandemic protections, 86% were for a failure to pay rent or utilities
 - With pandemic protections, 95% were for a failure to pay rent or utilities



15% reduction in UD filings following RRSO



Spikes in the number of rent increases related to large properties submitting several notices at once





Covered rental units averaged lower increases

- Lower market-level average effective rent during the pandemic, with an increase in second half of 2021
- Banked increases lead to average increase over the threshold as allowed under the RRSO



Covered Rental Units Rental Units Market Level

RRSO Administration Fee Increase Analysis

This section describes the need for an increase to the RRSO administration fee to meet the requirements established by the RRSO.



The RRSO administration fee has not been increased since it was established in July 2019

Initial calculation assumptions:

- Proportional distribution of expenses for all units based on the proportion of Covered Rental Units (43%) and Rental Units (57%) at the time
- Expenses directly related to administering the Rent Review Program for Covered Rental Units were distributed 95% to Covered Rental Units and 5% to Rental Units

| | FY 19-20 Rates |
|---------------------------------------|----------------|
| Annual Fee per Covered Rental Unit | \$40 |
| Annual Fee per Rental Unit | \$19 |



After 3.5 years, implementation costs consistently exceed revenues, and a fee increase is necessary to continue meeting the requirements of the RRSO

- No earlier fee increases due to increased economic constraints experienced by tenants and property owners during the peak of the COVID-19 pandemic
- Other funds were used to offset RRSO and TRAO administrative costs
- Expenses are rising across all Housing Division funds and other non-restricted fund balances are depleted
- Consistent with the requirements of the RRSO, staff recommends increasing fee to achieve full cost recovery



Reductions in service would result in inability to comply with the RRSO

- The HHTF directed staff to review areas to reduce expenses
- Analysis indicates that any reductions, such as to staffing, consultant contracts, or marketing expenses negatively impacts RRSO implementation
 - Risk of failing to comply with the RRSO
 - Reduced ability to proactively inform stakeholders about their rights and responsibilities
 - Reduced ability to share important changes, such as information about eviction moratoria or other significant state- or county-wide changes



Hayward's proposed fee falls within the range of fees assessed by comparable jurisdictions that implement renter protections

- On average, other jurisdictions increased fees by approximately 30% but have higher overall fees
- In cities with tiered structures like Hayward, Covered Rental Unit fees range from \$226-\$250 and Rental Unit fees range from \$37-\$127
- In cities with one fee for all units, the fees range from \$12 to \$101
 - In Fremont, the fee is reduced because the program is a non-binding rent review program requiring less administration compared to Hayward



The proposed fee increase accounts for actual implementation expenses

- The initial fees were developed based on estimates in 2019
- Proposed fee increase reflects:
 - Staffing allocation from 2.75 FTE to 4.0 FTE
 - Increase consultant capacity to account for almost 50% increase in petition volume and to continue service provision as required by the RRSO
 - Enhanced marketing efforts to improve accessibility, awareness, and compliance
- Proposed increase uses the same proportional allocation methodology as the original calculation and increases the fee proportionally based on percent increase of the budget



Proposed fee increase will cover estimated expenses

| | Proposed Fee Increase | | | |
|--|-----------------------|------|------|--|
| | MH | RU | CRU | |
| Fee per unit | \$5 | \$32 | \$66 | |
| Increase from FY 19 fee | \$0 | \$13 | \$26 | |
| Percent increase from FY 19 fee | 0% | 68% | 65% | |
| Total projected revenue | \$1,034,823 | | | |
| Legend: MH = Mobile Home Unit; RU = Rental Unit; CRU = Covered Rental Unit | | | | |

The RRSO provides opportunities for cost recovery for landlords

- Owners of Covered Rental Units may pass through half the cost of the fee to the tenants.
- Owners of Rental Units are not restricted by the City's RRSO on increases that may cover the cost of the fee, though they may be subject to a State rent increase threshold.
- RRSO guarantees owners a fair return, so property owners whose net operating income does not exceed the increase in CPI during a specific period may file a fair return petition



Recommendation



Summation and Recommendation

- Increasing the fee ensures the City can enforce the RRSO and maintain the same level of service
- Landlords can recover at a minimum half of the costs from the tenants
- Staff recommend increasing the RRSO administration fees to recover the full cost of implementation as required by the RRSO





If approved, staff will notify landlords of the fee increase before next annual billing







Questions
HAYWARD MUNICIPAL CODE

ITEM #8

PH 23-016



Affordable Housing Ordinance Update



City Council Meeting City of Hayward March 28, 2023

Presentation overview

- Purpose of today's item:
 - Consider introduction of ordinance to amend the Affordable Housing Ordinance
 - Consider adopting resolutions to change certain affordable housing in-lieu fees and to amend the FY 2024 Master Fee Schedule
- Today's presentation:
 - Summary of February 21st work session recommendations
 - Responses to work session questions
 - Recommended actions



The AHO policy leverages market rate housing production to produce affordable housing

- Applies to new market rate housing development projects
- Does not directly control the types of projects proposed
- AHO requires:
 - % on-site deed-restricted affordable housing units and affordability levels of those units ("inclusionary" requirement)
 - Other alternatives that produce affordable housing, or
 - Payment of in-lieu fees which subsidize the development of affordable housing
- Last updated in 2017
 - Increased in-lieu fees & applied the AHO to smaller projects
 - Increased flexibility for means of compliance



The AHO Study and update seeks to ensure affordable housing production

- Revise the inclusionary housing requirements and in-lieu fees
- Optimize the AHO's potential to produce affordable housing



The AHO Study incorporated technical analysis and stakeholder input

- Stakeholder and decisionmaker input:
 - City Council and its Homelessness-Housing Task Force
 - Planning Commission
 - Community surveys
 - Technical Advisory Committee (developers)
- Technical Analyses:
 - Financial feasibility analyses of AHO and alternatives
 - "Affordability gap" calculations to inform in-lieu fee amounts



Recommendations Shared at the February 21st Work Session



2/21 Recommendations: Inclusionary Requirements

| Existing AHO | Recommended Revised AHO |
|--|--|
| <i>Rental:</i> 6% total inclusionary 3% Low income 3% Very low income | <i>Rental:</i> No changes |
| <i>Ownership</i> 7.5% Moderate income if more than 35 du/acre | <i>Ownership</i> No changes |
| 10% Moderate income if less than 35 du/acre | 12% if less than 35 du/acre 6% Low income 6% Moderate income |
| | |

STRATEGIC ECONOMICS

Recommended a 6% low-income & 6% moderateincome requirement for lower-density ownership products (12% total inclusionary)

- The low-income affordability level addresses HHTF and community priorities for meeting the needs of lower-income households
- The moderate-income affordability level recognizes the AHO's unique ability to provide ownership housing at this income level
- Feasibility analyses show that this is the highest requirement reasonably supportable by single-family homes and townhomes
- Higher-density ownership products and rental products cannot feasibly support higher inclusionary requirements



2/21 Recommendations: Developer Paid In-Lieu Fees

| Existing AHO | Recommended Revised AHO |
|--|---|
| <i>Rental:</i> \$21.64 per square foot | <i>Rental:</i> Maintain \$21.64 per square foot |
| <i>Ownership</i> \$17.85 per square foot if more than 35 du/acre | <i>Ownership</i> Maintain \$17.85 per square foot if project built at 35 du/acre or greater |
| \$21.64 per square foot if less than 35 du/acre | <mark>\$26</mark> per square foot for projects built at less than 35 du/acre |



Recommended increasing in-lieu fees for lower-density ownership products

- Increasing lower-density ownership fees better aligns fees with adjusted inclusionary recommendations, peer city fee levels
- Maintaining other existing in-lieu fees acknowledges limited feasibility of these products, aligns with peer city fees
- TAC members emphasized importance of in-lieu fees for providing flexibility as market conditions evolve
- Fee revenues provide critical City funding for affordable housing production



2/21 Administrative Amendments Recommendations

Staff recommended the following amendments to improve implementation of the AHO:

- Affordable Housing Cost: Revise to make definition inclusive of all housing costs
- Marketing Plan: Revise to align with development process. Currently, plan is requested too early. Elaborate on requirements to affirmatively further fair housing and marketing in multiple languages
- Approval of Affordable Unit Phasing Plan: Revise to replace Council approval with approval by decision making body to streamline



2/21 Administrative Amendments Recommendations-Continued

- **Priority Preference:** Add priority preference to people displaced by City activity in addition to live/work preference.
- Maximum Resale Price: Revise formula for calculated resale price to be consistent with existing city agreements that apply one of two indices instead of the lessor of the two indices.
- Administrative Cost: Increase the amount of in-lieu fees to be applied to administrative costs from 10% to 15%.
- Seven non substantive changes for clarification purposes only



Discussion of City Council Questions/Interests



City Council guidance from the February 21 work session:

- Majority supported the proposed modifications
- Some interest in:
 - 1. 15% on-site inclusionary requirement for ownership units
 - 2. Increasing rental requirements or setting parameters for an increase
 - 3. Historic uses of in-lieu fees
 - 4. Factors contributing to Fremont's production of inclusionary units
 - 5. Incorporating commercial development timeline in the affordable housing phasing plan
 - 6. Language indicating that the City prefers on-site inclusionary housing
 - 7. Information about other City strategies for housing stability & affordability



Infeasible to Increase Homeownership Unit Requirements to 15% While Including Low-Income Units

- Shifting from a 10% moderate-income inclusionary requirement to a 6% low- and 6% moderate-income requirement (12% total) is already a major increase in requirements from a feasibility perspective
- At 15% (with low-income units), minor changes in development conditions make most singlefamily home and townhome project infeasible

Sensitivity Analysis Results for Ownership Units - Assuming 15 Percent Required Inclusionary and 50/50 Split Between Low and Moderate Income

| | Current Costs | Scenario 1 | Scenario 2 | Scenario 3 | Scenario 4 | Scenario 5 |
|--|---------------------|------------|------------|------------|------------|---------------------|
| Increase in Hard Costs of Construction | 0% | 1% | 2% | 3% | 4% | 5% |
| Feasibility by Project Type | | | | | | |
| | | Marginally | Marginally | Marginally | Marginally | |
| Single Family Development | Marginally Feasible | Feasible | Feasible | Feasible | Feasible | Marginally Feasible |
| | | Marginally | | | | |
| Townhomes | Marginally Feasible | Feasible | Infeasible | Infeasible | Infeasible | Infeasible |
| Source: Strategic Economics, 2023. | | | | | | |



Projects considered "Feasible" if Return on Cost is greater than 25%

Projects considered "Marginally Feasible" if Return on Cost is greater than 20%

Projects considered "Infeasible" if Return on Cost is less than 20%

Considering current infeasibility, increasing requirements will only further constrain development of rental housing

Residual Land Value Results Under Existing AHO On-Site Inclusionary Requirements for Rental Products, by Market Tier







Increasing AHO requirements for rental housing would require an even larger increase in rents before rental housing could be built

- Existing requirement is 3% very low income and 3% low income (6% total)
- Maintaining existing requirement:
 - Ensures affordable units are produced if development conditions improve
 - Avoids adding additional constraints

Percent Change in Net Operating Income Required to Achieve Feasibility Under Current AHO Requirements, by Product Type and Market Tier





Selecting an automatic trigger for adjusting rental inclusionary requirements is impractical due to the many factors determining project feasibility

- No specific indices can capture the many factors that impact financial feasibility outcomes and link to a specific policy change
- Example factors include achievable rents, materials costs, labor costs, financing costs, City fees, changing development standards
- A future feasibility study should be used to adjust rental requirements if development conditions appear to positively change



Hayward in-lieu fees have funded 364 affordable housing units in five 100% affordable developments

- \$9.6 million of in-lieu fees (Inclusionary Housing Trust Funds)
- 67% of these units affordable to "extremely low income" and "very low income" households
- Leveraged in-lieu revenues to receive nearly \$4m in HCD Local Housing Trust Funds
- Most other City contributions were one-time sources

City of Hayward Inclusionary Housing Trust Fund Commitments by Project

| Project | Project Type | ELI | VLI | LI | Total units | Inclusionary Housing Trust | Other City Funds |
|---|--|-----|-----|----|----------------|----------------------------------|------------------|
| Depot Community Apartments | Individuals | 67 | 27 | 30 | 125 | \$1,610,000 | \$22,839,865 |
| Mission Paradise | Senior | 36 | 26 | 13 | 76 | \$3,764,720 | \$2,365,280 |
| Pimentel Place | Family | 35 | 11 | 10 | 57 | \$2,000,000 | \$238,951 |
| Sequoia Grove | Ownership | 0 | 0 | 10 | 10 | \$200,000 | \$600,000 |
| Parcel Group 8 Affordable Housing | Family | 0 | 42 | 53 | 96 | \$2,000,000 | \$8,865,161 |
| | Total 138 106 116 364 \$9,604,720 \$34,909,257 | | | | | \$34,909,257 | |

City of Hayward, 2023.



Higher household incomes and achievable rents partly explain Fremont's greater inclusionary housing production

- Effective market-rate rents per square foot are nearly 18% higher in Fremont
- Fremont household incomes are:
 - 65% higher for renters
 - 51% higher for owners

• The differences partly explain Fremont's high inclusionary housing production, even with higher requirements (10% for rentals)



On-Site Units Permitted, 2018-2021

Source: California HCD, RHNA Annual Progress Report, 2022; Strategic Economics, 2022

Conditions of approval already include commercial space delivery timing in mixed-use developments

- Affordable unit phasing plan requirements under the AHO may not apply to all projects
- Maintaining timing requirements as a separate condition of approval ensures timing requirements are applied to all mixed-use projects
- The proposed modification is intended to reduce confusion about affordable unit phasing plan with a development phasing plan
- No additional requirement related to commercial development was added.



Staff modified the AHO findings language to state a preference for on-site affordable units

- Language was added to the affordable housing ordinance to states Council's preference for on-site affordable units to create mixedincome communities.
- The intent is to provide guidance to the developers but does not impose a requirement.



The City uses many additional strategies to improve housing stability and affordability

- Residential Rent Stabilization and Tenant Protection Ordinance
- Tenant Relocation Assistance
 Ordinance
- Implementation of the Emergency Relocation Assistance Fund
- Opening the Hayward Navigation Center
- Incentives to Housing Production Work Plan
- Let's House Hayward! Strategic Plan
- Applying for State housing and planning grants

- Funding contracts with services providers to provide:
 - Legal service for low-income tenants
 - Tenant/landlord mediation
 - Fair housing testing
 - Housing counseling
 - Shallow rental subsidy
 - Foreclosure prevention services
 providers
 - Fair housing organization
 - Housing counselors
 - Foreclosure prevention



Recommended Actions



Staff recommends:

- Modify the AHO to:
 - Increase ownership inclusionary requirement for lower-density housing products to 6% low-income and 6% moderate-income
 - Improve implementation by clarifying language, better aligning some of the requirements with the development process to streamline, and to conform requirements with existing affordable housing agreements and resale restrictions
- Adopt a resolution to increase the affordable housing in-lieu fee for lower density ownership projects from \$21.64 to \$26 per square foot



If approved:

- Changes to AHO effective 30 days after second reading and applied to all new affordable housing plans submitted
- Change to the fee effective with the FY 2024 Master Fee Schedule (July 1, 2023)



Thank you!



GENERAL PLAN ANNUAL PROGRESS REPORT

ITEM #9

LB 23-012

Hayward 2040 General Plan Annual Progress Report

City Council March 28, 2023



Background



- Annual updates of the General Plan (GP) implementation programs are required by the California Government Code
- ✓ GP annual progress report includes measurable outcomes and actions associated with the implementation of all the General Plan elements.
- Once Council accepts the report, it is forwarded to the State OPR and the Housing and Community Development office. No other action is required from the Council.



Hayward 2040 General Plan



Hayward General Plan: A long-range comprehensive plan that controls and regulates land uses and development in the City through 2040. The General Plan was adopted in July 2014.

- Establishes a community-based vision for the future of Hayward.
- Includes goals, policies and implementation programs included in ten individual elements of this General Plan (Land Use, Mobility, Economic Development, Community Safety, Natural Resources, Hazards, Education, Community Health, Facilities/Services, and Housing).



General Plan Priorities

Timelines of Program Implementation

| Short & Near Term | 107 Programs | <u> 2014-2019</u> | |
|-------------------|--------------|-------------------|--|
| 59 Annual/Ongoing | | | |
| 48 One Time | | | |
| | | | |
| Long Term | 36 Programs | <u>2020-2040</u> | |
| | | | |

31 One Time 5 Annual/Ongoing



One Time Program vs. Annual/On-Going Program

One-Time Programs

- Downtown Specific Plan
- Traffic Impact Fee
- Bicycle/Pedestrian Master Plan

Annual/On-Going Programs

- General Plan Annual Reporting
- Grant Funding
- Capital Improvement Program (CIP)



Implementation Program Status



2020-2040 Timeframe





Completed Programs 2014-2019 Timeframe



HAYWARD DOWNTOWN SPECIFIC PLAN

City of Hayward, California Revised Public Hearing Draft | March 2019 Thirty programs identified for the 2014-2019 timeframe have been completed, some of which include:

- ✓ Downtown City Center Specific Plan
- ✓ Pedestrian Master Plan
- ✓ Education and Lifelong Learning Resource Center
- ✓ Park Dedication Requirements and In-Lieu Fees



Programs In-Progress 2014-2019 Timeframe



Fifty-eight programs identified for the 2014-2019 timeframe are currently in progress. Some of these include:

- ✓ Library Strategic Plan and Annual Report
- ✓ Homeless Services Partnership program
- ✓ Updates to the Climate Action Plan, Safety Element and adoption of a new Environmental Justice Element



Programs Not Yet Started 2014-2019 Timeframe



Programs identified for the 2014-2019 timeframe not yet initiated due to limited staff/fiscal resources and/or competing City priorities include:

- Comprehensive updates to: Zoning Ordinance, Subdivision Ordinance, Design Guidelines, and Off-Street Parking Regulations
- ✓ Urban Forest Management Plan
- ✓ Updates to Grading Ordinance

Reprioritized Programs

Several programs identified for the 2020-2040 timeframe that have been initiated ahead of schedule include:

- ✓ City Building Energy Efficiency Audits and Reports
- Neighborhood Traffic Calming Policy
- ✓ Recycled water program
- ✓ Local Hazard Mitigation Plan





Upcoming Priorities in 2023 & Beyond

Programs that have been identified as priorities and/or are currently in progress for 2023 include:

 General Plan Update
 Housing Element, Environmental Justice Element, Climate Action Plan)

- ✓ Density Bonus
- ✓ Homeless Services Partnership
- ✓ Inclusionary Housing Ordinance



23/3421

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Programs Aligned with Strategic Roadmap Projects



Status of SRM-aligned GP programs





Programs Aligned with Strategic Roadmap Projects

Some of the programs in the General Plan identified in the City Council's Strategic Roadmap (SRM) include:

- City's Housing Element Update (GP Update, GPA-2) Aligned with SRM Project: Preserve, Protect and Produce Housing for All (9)
- Foreclosure Prevention Program (H-5)

Aligned with SRM Project: Preserve, Protect and Produce Housing for All (11)

Density Bonus Ordinance Update (H9)
 Aligned with SRM Project:
 Preserve, Protect and Produce Housing for All (4, 4b, 4f)

Aligned 57%

General questions from the Planning Commission February 23, 2023



- Timing on the implementation of several of the programs that have not started yet
- Possible reprioritization of some of the programs that are aligned with the Strategic Road Map

Next Steps



- Council to accept report. No other formal action needed.
- ✓ Staff will:
 - Forward Annual Report to the State
 - Update status of implementation programs on n the City's website
 - Continue to provide an annual update to the City Council on General Plan implementation progress.
 - Continue to take the lead on the various programs, helping to implement the General Plan's goals and policies.

Thank you!

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Any questions?