

Fire GUARD



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A Publication of the Northern Illinois Alliance of Fire Protection Districts

Fall 2018

Letter from the President



It's gotten to be that time of year again when the leaves are turning their brilliant autumn shades and the temperatures are getting cold again – yes, summer is over. As we make the inevitable move into the winter months we are also reminded that we're getting closer to our annual educational conference being held at the Oakbrook Hills Resort and Conference Center January 24th - 27th, 2019.

If you've attended the conference in the previous 25 years you already know that it is the area's premier educational conference for Fire Protection District Trustees, Commissioners, Pension Board Trustees and District Administrators. If you haven't, please consider joining the 250 folks who will be there from Fire Districts all over Northern Illinois including some of your own neighboring districts. And remember, all annual continuing education units (CEUs) can be attained at this one conference whether it's for maintaining Advanced Trustee Training certifications or if you need the full 16 hours required annually for Pension Board members.

We all demand that our District personnel are trained to be the very best - current and informed - so why wouldn't our residents expect the same of those who make the decisions that affect their tax dollars and the protection of their property, health and safety?

There is no better place in Northern Illinois for us to not only find some of the best expert presenters and educators, but also to discover the value of networking and collaborating with our own peers. This is a don't miss event and I hope to see you all there again for this, our 26th year. Nick Kosiar

Letter from the Executive Director



The NIAFPD annual membership dues and lobbyist assessment invoices have been mailed out. The lobbyist assessments are based on your districts 2017 assessed valuation reported to the Illinois Comptroller's office. The Board of Directors voted to assess the membership to cover the expense of our lobbyist contract for fiscal year 2018/19.

The quickest way to share information with our members is through email. Please take a moment to verify your contact information through the members only section of our website. Select 'profile update' to update or change information. If you do not know your login or password please send me an email.

The 2019 Conference (January 24-27th) registration information has been mailed to each District and is available on our website at www.niafpd.org. **We encourage you to register on-line for the conference before the deadline of January 8, 2019 to avoid a late registration fee.** Payment for your registration can be made with a credit card or by check.

If I can be of any help to your district or have any questions regarding the NIAFPD, remember I'm only a phone call away.

Kathleen Haage 224-355-9778

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ADS v. Orland Fire Protection District: No cause for alarm but continued monitoring is required

by James G. Wargo, Ottosen Britz Kelly Cooper Gilbert & DiNolfo, Ltd.

On August 2, 2018, the United States District Court for the Northern District of Illinois issued an opinion upholding two direct connect fire alarm monitoring ordinances and an exclusive alarm monitoring contract between the Orland Fire Protection District (“Orland FPD”) and Tyco Integrated Security, LLC (“Tyco”) in the face of a federal antitrust challenge brought by a displaced fire alarm company. *Alarm Detection Systems, Inc. v. Orland Fire Protection District*, 2018 WL 3901318. The ADS decision provides further guidance on the impact federal antitrust laws may have on direct connect fire alarm monitoring ordinances in light of the questions raised by the Seventh Circuit Court of Appeals in *ADT Security Services, Inc. v. Lisle-Woodridge Fire Protection District*, 724 F.3d 854 (7th Cir. 2013) (Lisle-Woodridge II) and *ADT Security Services, Inc. v. Lisle-Woodridge Fire Protection District*, 672 F.3d 492 (7th Cir. 2012) (Lisle-Woodridge I). While the decision is instructive, it remains subject to modification as ADS recently appealed the decision to the Seventh Circuit Court of Appeals.

In 2006, the Orland FPD enacted an ordinance that required certain commercial buildings within the fire protection district to send fire alarm signals directly to its 911 dispatch center through a direct connect alarm monitoring system. After the *Lisle-Woodridge* decisions, the Orland FPD rescinded its direct connect ordinance and successfully requested two overlapping villages to each enact a similar direct connect fire alarm monitoring ordinance.

The two competing technological systems used to monitor fire alarms at issue in the case include the direct connect system and the central station system. In a central station system, an alarm company establishes one facility to receive fire alarm signals from multiple locations and relays those signals to the relevant 911 dispatch center. In a direct connect system, the fire alarm signals are transmitted directly to the 911 dispatch center and are not passed through a central station.

After the villages adopted their direct connect ordinances, the Orland FPD extended its exclusive contract with Tyco to provide fire alarm monitoring services and equipment for the Orland FPD 911 dispatch center and commercial properties within the district. Under the villages’ ordinances, Tyco provided transmitters and monitored fire alarm signals for nearly all of the businesses in the Orland FPD. While Plaintiff ADS was allowed to install and maintain fire alarm transmitters under the ordinances, it was required

to purchase the alarms and/or the transceiver components from Tyco. In addition, ADS would be required by the ordinances to contract with Tyco in order to transmit the alarm signals directly to the Orland FPD 911 dispatch center as the ordinances did not authorize the transmission of the alarm signals through ADS’s central station system.

In 2014, ADS filed suit against the Orland FPD and Tyco alleging that the two “conspired to restrain or monopolize trade” in the fire alarm monitoring market in violation of federal law in regard to the implementation of a direct connect alarm monitoring system throughout the Orland FPD. After a bench trial, the District Court issued an opinion ruling in favor of the Orland FPD and Tyco and upholding the exclusive alarm monitoring contract. ADS argued that the arrangement between the Orland FPD and Tyco illegally precluded ADS from competing in the fire alarm monitoring business in the Orland FPD. ADS argued that it could not be competitive in the fire alarm market because of the additional cost associated with purchasing alarms and transmitters from Tyco and its inability to directly monitor its alarm signals.

ADS sought to invalidate the exclusive agreement between the Orland FPD and Tyco under Section 1 of the Sherman Act. In order to sustain such a claim, a plaintiff must prove the existence a “contract, combination, or conspiracy” as well as an “unreasonable restraint on trade” and “resultant injury.” The court noted that while ADS alleged that the direct connect ordinances were part of an “arrangement” that constituted a “contract, combination, or conspiracy,” it neither sued the villages nor argued that the Sherman Act preempted the direct connect ordinances. Instead, ADS’s primary goal was to invalidate the exclusive agreement between Tyco and the Orland FPD.

Because ADS alleged that the local ordinances were an aspect of the alleged “contract, combination, or conspiracy,” the court noted that the “analysis of the federal antitrust implications of such alleged concerted action must begin with the role played by the local law.” The court noted that a unilaterally imposed restraint by the government does not become “concerted action” within the meaning of Section 1 of the Sherman Act “simply because it has a coercive effect upon parties who must obey the law.” As such, legislation that is determined to be “unilateral” in nature is not considered within the purview of the Sherman Act.

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Springfield Legislative Update



By: Liz Brown-Reeves, NIAFPD Lobbyist

ELECTION

As our televisions and mailboxes continued to be flooded with campaign commercials and mail- the 2018 General Election- continues to be at the forefront of Illinois politics. On a statewide ticket round up- the Governor's race between Governor Bruce Rauner (Republican) and Challenger JB Pritzker (Democrat) is getting the biggest headlines. The Attorney General's race between Senator Kwame Raoul (Democrat) and attorney Erika Harold is also one to watch.

Speaker Madigan will work to keep his Democratic majority in the Illinois House with the end goal of reaching 71 members to get to the "super-majority, veto-proof" magic number from Republican Leader Jim Durkin. Madigan currently has 67 Democrats.

President Cullerton will work to keep his Democratic majority of 40 members in the Illinois Senate in comparison to Republican Leader Bill Brady's 19 members.

VETO SESSION

Veto Session is November 13-15 & November 27-29 in Springfield. The outcome of the Governor's election will help dictate the amount of work that will take place in November. If Rauner remains Governor, you will see a more active Veto Session.

BILL REVIEW

SB 2471 (Holmes) – Support

Expands the definition of "volunteer emergency worker" to mean a person who serves as a member of a fire department of a fire protection district, municipality, or other unit of government on other than a full-time career basis and who meets the requirements for volunteer status under United States Department of Labor.

Current Status: Public Act – [100-0973](#)

HB 4661 (Martwick) – Support

Provides that for an elected or appointed trustee under the Downstate Police or Downstate Firefighter Article of the Code, fulfillment of certain trustee training requirements satisfies certain ethics training requirements.

Current Status: Public Act – [100-0904](#)

SB 2629 (T. Cullerton) – Support

Provides that an elected or appointed member of the board of trustees of a fire protection district may satisfy the training requirements of the Act by participating in a course of training sponsored or conducted by an organization that represents fire protection districts created under the Fire Protection District Act. Provides the required subject matter for the course of training. Provides that if an organization that represents fire protection districts organized under the Fire Protection District Act provides a course of training, it must provide a certificate of course completion to each elected or appointed member of a board of trustees who successfully completes that course of training.

Current Status: Governor Vetoed

Veto Message: This legislation which would undermine the free and transparent training the Attorney General's Office provides to bodies under the Open Meetings Act by placing it in competition with training conducted by an organization that represents fire protection districts.

The Attorney General's Office offers training to appointees to boards and commissions that follow the Open Meetings Act. This training is available online, and any member of the public can also take this training and see what requirements and principles guide their representatives. Senate Bill 2629 would instead permit appointees to the board of trustees of fire protection districts to take a different training, conducted by private organizations, in lieu of the more public and zero-cost training already available. The Open Meetings Act is within the purview of the Attorney General's Office to administer and oversee. Senate Bill 2692 improperly gives the private sector the ability to opine on the legal requirements for open meetings and the applicability and procedures of the Act. The bill does not ensure that this training will be approved or reviewed by the State. This change therefore invites unpredictability and noncompliance with the Act.

SB 2638 (Clayborne) – Support

Governmental Account Audit Act, provides that audit reports shall be prepared on financial statements consistent with either the accrual or cash basis of accounting and gives the Fire Districts the choice of which option to use.

Current Status: Public Act – [100-0837](#)

Legislative Fire Guard Update: What's Up Doc ?

By: Ronald Kubicki, Legislative Liaison NIAFPD

What's Up Doc with the Illinois General Assembly? As many of you might know the 101st Illinois General Assembly will have the largest number of new members starting in January 2019. I cannot in recent memory remember a larger turnover of members in the General Assembly. The November 2018 elections will have the largest number of Senators and Representatives who have decided not to seek re-election. Now you might ask, "what does this mean for the Illinois Fire Service and how will it affect me and my fire district?"

Let me break this down for you, in the House we have a total of 118 Representatives, 67 Democrats (56.7%) and 51 Republicans (43.2%) with 30 of them not returning to the house that's a loss of 25.4%. That's 15 Democrats (22%) and 15 Republicans (43.2%).

There are three main reasons for them not returning to Springfield.

1. Five of them lost their Primary election.
2. Nineteen of them are either not seeking reelection or are just retiring.
3. The third reason is that 6 of them are now seeking a higher State office. In the Senate we have 11 members not returning 5 Democrats (13.5%) and 6 Republicans (27.2%) all for the same three reasons the house has.

1. Two of them lost their primary.
2. Eight of them are retiring or just not seeking reelection.
3. One of them is seeking a higher office. All total there will be 41 legislators out of 177 not returning That's 23% of the legislators. These numbers don't even include the possible 3% loss of incumbents losing in the general election. As I said in the beginning "What's Up Doc"

With this many Senators and Representatives not running for re-election, it could mean a great deal to us in the fire service in the next General Assembly.

One thing I can tell you for sure is that we all, as a member of the Illinois Fire Service, will need to get out this November, December and January and start setting up meetings with our local legislators to make them aware of you and your fire district. Some of the biggest supporters of the fire service are leaving the General Assembly in January. In the Illinois House of Representatives, we will be losing the Fire Caucus Co-chair Carol Sente, and the other house Co-chair John Cavaletto along with Representatives Elaine Nekritz, Patti Bellock, and Al Riley, to name just a few. We

will also be losing, Senator Pam Althoff and Senator Karen McConaughay. This is a major impact considering that all these legislators have won the NIAFPD Legislator of the Year Award.

With the loss of over 40 legislators, the Illinois Fire Service Association is now working on a plan to educate the new members of the 101st General Assembly by hosting a Fire Caucus Service Day in the Capitol sometime in late January or early February. We would have members of the Illinois Fire Service Association come down to Springfield and host a workshop for the new legislators to make them aware of our issues and just how the Illinois Fire Service work together to pass legislation which effects the residents of the State of Illinois. This is just one idea - we know that more will be needed to be done to educate our elected officials - this is where our members can help. As I stated earlier we will need all of you to go out and meet with your local Senators and Representatives to let them know who you are and to learn more about your district. You need to let them know that you can be their source of information on issues related to the Fire Service. You can pass along to them the names of Liz Brown and myself as another source of information. Let them know about our annual Legislative Day we hold in the spring. You need to invite them out to visit your districts to see your facilities and to meet your personnel. Make them feel a little more comfortable about the fire service and what we can do for them. Help them understand some of the problems you and the entire fire service face daily. If your district has a newsletter or an e-mail blast get them signed up, so they can get updated information on your district. Ask them to attend our Annual NIAFPD Conference Awards luncheon in January. All of this will help them understand our jobs and our positions a lot better. With your help we can make a difference in Springfield.

The Illinois Fire Service Association held its annual Legislative Summit on Friday October 26 in Champaign at the Illinois Fire Service Institute to propose the new Fire Service Initiatives for the upcoming 101st General Assembly. Remember that initiatives that come out of this meeting and have a unanimous consensus by all 13 members become fire caucus bill and will be introduced as such in the General Assembly.

On a personal note I would like to say Thank You on behalf of the NIAFPD and myself to the past chairman of the Illinois Fire

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NOW IS THE TIME FOR YOUR DISTRICT TO MAKE PLANS TO ATTEND THE 2019 NIAFPD CONFERENCE!

You may not believe it but January is just a few months away and so is the Northern Illinois Alliance of Fire Protection Districts' 26th annual conference. Once again we will be at the Hilton Chicago/Oak Brook Hills Resort and Conference Center in Oak Brook, January 24–27, 2019. We ask that you place the NIAFPD Conference on your board meeting agendas now so it may be discussed and board members can make arrangements to attend this valuable training opportunity for trustees, commissioners, chief officers, pension board trustees and administrative staff members. If you would like to have one of our executive board members attend one of your meetings to explain the benefits of this conference, we'd be pleased to do so.

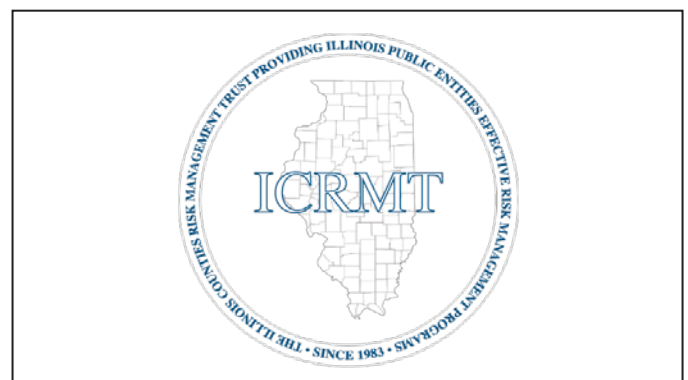
The conference committee has completed the program and the entire program can be found on our web site by going to NIAFPD.ORG. In reviewing the program you'll note that the Thursday afternoon sessions and all day Friday sessions are geared to provide educational opportunities for fire district administrative personnel and pension trustees. However, district trustees and commissioners can also benefit from these informative sessions. In addition to the knowledge you will also gain trustee continuing education credits. On Saturday we'll have a combination of joint general sessions as well as individual sessions that will provide training to not only trustees but also commissioners, administrative staff and pension board trustees with all sessions qualifying for continuing education credit for district trustees and pension board trustees.

Your registration fee includes not only several very informative training sessions but also lodging (*if you select the lodging registration package*), continental breakfasts, lunches, breaks, the Friday sponsor reception and the Saturday closing reception. All receptions will have Hors D'oeuvres and cocktails with an extensive selection of Hors D'oeuvres at the Saturday closing reception. Each of these receptions will provide an excellent opportunity to network with your peers from other districts and various conference speakers.

When it comes to sending your firefighting personnel to conferences and various training sessions you don't hesitate approving that training. It's only right that you train yourselves in

order to provide the very best for your district and the citizens the district protects. Just as the training you provide for your firefighting personnel is a very justifiable expense of your district's tax dollars, so are the educational and networking opportunities available to you at the NIAFPD 2019 Conference.

Again, if you would like a member of our Board of Directors to attend one of your board meetings to discuss the benefits of our conference or the benefits of membership in the NIAFPD please call our Executive Director Kathleen Haage at 224–355–9778 or contact her via e-mail at khaage@comcast.net.



THANK YOU!

Thank You for Presenting Cancer in the Fire Service at our NIAFPD Fall Seminar

Deputy Chief Andy Dina, Naperville Fire Department
Shawn Flaherty, Ottosen Britz Kelly Cooper Gilbert & DiNolfo Ltd.

*Since 2002, 63% of the firefighters on the
IAFF Fallen Fire Fighter Memorial Wall of Honor have died from cancer.*

Deputy Chief Dina's slide presentation is posted at www.niafpd.org - Events & News – Annual Events

Thank you Marianne DeBoer for serving on the NIAFPD Board of Directors from 2011 to 2018!

Marianne resigned as trustee of the Beach Park FPD as a result of moving to a new home out of the fire district.



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Bond Yields Continue Upward Move

By: Thomas S. Sawyer, Managing Partner, Sawyer Falduto Asset Management, LLC

Key Points

- **Federal Reserve:** The Fed raised the benchmark interest rate by 0.25% bringing the target range to 2.0% - 2.25%. With unemployment below 4% and the most recent reads on inflation ranging from 2.5% to 3.0%, the market expects the Fed to stick to prior guidance and raise short-term rates again in December.
- **Economy:** Second quarter GDP was reported growing at an annual rate of 4.2%, in-line with market expectations. The unemployment rate remains at a historically low 3.9% supported by initial claims which are also at long-term lows. Measures of consumer confidence and productivity continue to trend higher as well.

Bond Yields

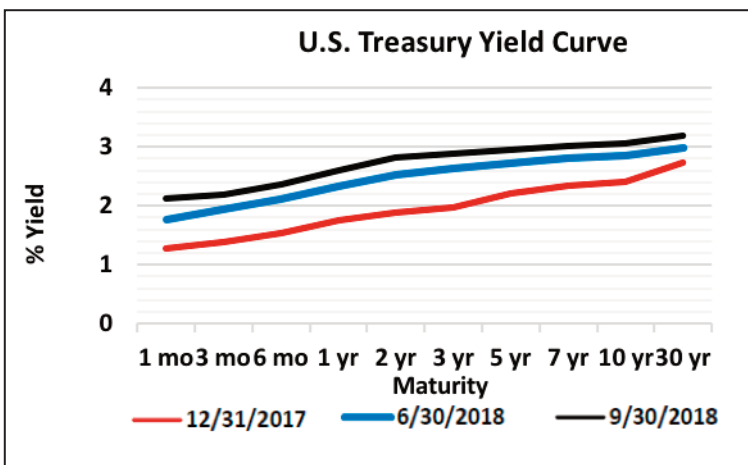
Interest rates moved higher across the maturity spectrum during the third quarter with the U.S. Treasury yield curve flattening by 9 basis points for maturities between two and ten years.

- The rate move during the 3rd quarter was led by the front end of the yield curve with Treasury bills and notes out to three years experiencing the largest increase in yield.
- The yield on the 10-Year U.S. Treasury moved higher closing at 3.05%, above the much discussed 3.00% mark. As a reminder, intermediate and long-term interest rates are more influenced by expectations for economic growth, inflation and global debt alternatives.

While intermediate and long-term bond yields moved higher, investor concern over the direction of trade policy along with the low yield on foreign sovereign debt alternatives should continue to lend to support U.S. Treasury prices. In terms of portfolio structure, we are positioning durations somewhat short of the benchmarks (slightly conservative) and place a premium on credit quality.

Concerns over the direction of trade policy, uncertainty surrounding the global political/economic environment and the low yield on foreign sovereign debt all lend to support U.S. Treasury prices. We continue to hold portfolio durations somewhat short of benchmarks (slightly conservative) and place a premium on quality.

"The allocation to equities, fixed income and all available asset classes should be determined with careful consideration given to factors such as investment time horizon, liquidity requirements, diversification and risk tolerance. The resulting asset allocation should be well documented in your investment policy statement and guidelines. Information contained in this commentary is solely the opinion of the author and obtained from sources believed to be reliable. Accuracy can not be guaranteed. Past performance is not predictive of future returns."



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LEGAL

Continued From Page 2

In analyzing the ADS's claim, the court noted that the villages' alarm ordinances require that alarm signals be sent directly from the fire alarm to the Orland FPD's 911 dispatch center. Of significance, the court noted that the parties had "implicitly conceded" that "dual monitoring technology, i.e., a fire alarm that can send a signal to both Orland FPD's 911 dispatch [center] and a central station, is not available or economically feasible." The court reasoned that a combination of the direct connect ordinances and the "technological/economic limitation" effectively limits alarm monitoring within the fire protection district to the company hired by the Orland FPD to maintain the 911 dispatch center. As such, the court concluded that the Orland FPD's exclusive contract with Tyco to maintain the 911 dispatch center constituted a proper exercise of the Orland FPD's authority to contract under the Fire Protection District Act.

The court also found that the restraint associated with the direct connect ordinances was "complete upon enactment." While the court noted that the Orland FPD and Tyco had certain discretion to implement the ordinances, the anticompetitive effect of the exclusive alarm monitoring contract was not within the discretion of Tyco or the Orland FPD. Because the villages required direct connection to the Orland FPD's dispatch center, "an exclusive contract with a fire alarm provider is the only way to accomplish that goal." As such, the court concluded that the exclusive contract together with the villages' ordinances constituted a "unilateral restraint" that did not involve any concerted action prohibited by the Sherman Act.

The court next rejected ADS's monopoly claim under Section 2 of the Sherman Act based on the unilateral state action associated with the direct connect ordinances. Section 2 of the Sherman Act requires the "willful acquisition or maintenance of" monopoly power. The court concluded that the exclusive alarm monitoring contract was necessary in light of the direct connect ordinances in the context of the current technology associated with the direct connect system.

Alternatively, the court also found that the Orland FPD was immune for liability associated with the anticompetitive effects of its conduct under the state immunity doctrine based on the fact that the anticompetitive conduct was foreseeable based on the statutory delegated powers to fire protection districts. In analyzing the immunity of the Orland FPD, the court noted that the FPD Act did not include an explicit grant of immunity similar to the immunity available to municipalities under the Illinois Municipal Code. However, the court noted that under the FPD Act,

"a fire protection district has the authority to adopt an ordinance requiring direct connect fire alarm systems." The court further noted that Section 11a of the FPD Act empowers the board of trustees of any fire protection district to "contract with any corporation organized to furnish fire protection service." As such, the court concluded that Orland FPD's "power to contract in the area of fire alarm protection made its exclusive contract with Tyco foreseeable."

While this court decision does provide further guidance for fire protection districts and municipalities in adopting and implementing direct connect fire alarm monitoring systems, the opinion cannot be considered a final ruling in the case as ADS appealed the decision to the Seventh Circuit Court of Appeals on September 5, 2018. All fire protection districts and municipalities with exclusive fire alarm monitoring agreements should continue to monitor the Seventh Circuit's proceedings in this case as it continues through the court system.

LEGISLATIVE UPDATE

Continued From Page 4

Service Association, Oak Lawn Fire Department Chief Mike Mavrogeorge for all his hard work over the past few years. Chief Mavrogeorge has done an outstanding job chairing the Illinois Fire Service Association, Mike has worked very long hours to ensure our issues were being heard in Springfield. Thanks Mike, you are one of the best and I know you leave with the knowledge that the Illinois Fire Service Association is in better shape because of your hard work and efforts. I would also like to congratulate Retired Franklin Park Fire Chief Steve Lovinelli on being elected as the new chairman of the Illinois Fire Service Association. I have known Chief Lovinelli for many years and have worked with him on a few issues here in Illinois and in Washington DC and found him to be an ultimate professional. I can ensure you that the Illinois Fire Service Association will be in good hands now and in the future.

In closing I am very excited to see what the new 101st General Assembly will look like and what it will mean to all of us in the Fire Service. Let the work begin.

Ronald P. Kubicki



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