

Republic of the Philippines  
**HUMAN SETTLEMENTS ADJUDICATION COMMISSION**  
HLURB Building, Kalayaan Ave. cor. Mayaman St.  
Diliman, Quezon City



**GENERAL JUFEL C. ADRIATICO, PNP (Ret.),**

*Complainant-Appellee,*

**HSAC Case No. HOA-A-240321-0529 (RIVA-HOA-220701-0284)**

- versus -

**JOSE RONALD VALLES, JOYCE FELISA DAPAT, BARBARA ANN DE JESUS, MARIA REGINA SOLIONGCO, CAMILLE MONTANO, ALLEN DIAZ, LESTER SINLAO, ALEX AARON RIOS, ISMAEL CERVANTES, and JOHN ERWIN LAVILLES,**

*Respondents-Appellants.*

X-----X

**NOTICE OF DECISION**

Sir/Madam:

Please take notice that a **Decision** on the above-cited case, copy hereto attached and the original of which is now on file at this Office, was promulgated by the Commission *En Banc* of the Human Settlements Adjudication Commission (HSAC) on **25 April 2024**.

You are hereby required to inform this Office, within five (5) days from receipt hereof, the date of receipt of this Notice together with a copy of the Decision.

SO ORDERED.

Quezon City, 09 MAY 2024.

**FOR THE COMMISSION:**

**ATTY. MICHAEL VINCENT S. GADDI**  
*Officer-in-Charge, Office of the Executive Clerk*

Copy furnished:

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Halang, Calamba City, Laguna, 4027

For the CORPORATE DOCKET -  
Filinvest East Homeowners Association, Incorporated -  
Filinvest Eastville, Brgy. San Isidro, Cainta, Rizal



Republic of the Philippines  
**HUMAN SETTLEMENTS ADJUDICATION COMMISSION**  
HLURB Building, Kalayaan Avenue corner Mayaman St.  
Diliman, Quezon City



**COMMISSION EN BANC**

**GENERAL JUFEL C. ADRIATICO, PNP (Ret.),**  
*Complainant-Appellee,*

**HSAC Case No.**  
**HOA-A-240321-0529**  
**(RIVA-HOA-220701-0284)**

*~ versus ~*

**JOSE RONALD VALLES,**  
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**MARIA REGINA SOLIONGCO,**  
**CAMILLE MONTANO, ALLEN DIAZ,**  
**LESTER SINLAO, ALEX AARON RIOS, ISMAEL CERVANTES, and JOHN ERWIN LAVILLES,**  
*Respondents-Appellants.*

**Members:**  
**Galicia,**  
**Exconde, Jr.,**  
**Yap II,**  
**Mahamud, and**  
**Cloribel**

*Promulgated 25 APR 2024*

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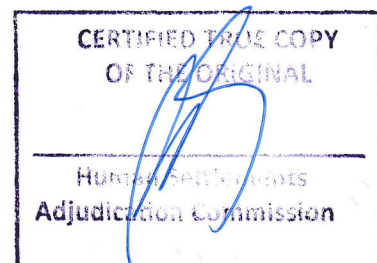
**DECISION**

***Exec. Comm. Galicia:***

Before this Commission is an appeal filed by respondents-appellants Jose Ronald Valles, Joyce Felisa Dapat, Barbara Ann de Jesus, Ma. Regina Soliongco, Camille Montano, Allen Diaz, Lester Sinlao, Alex Aaron Rios, Ismael Cervantes, and John Erwin Lavilles (“Valles, *et al.*,” for brevity), from the Decision<sup>1</sup> dated 27 February 2024 rendered by the Human Settlements Adjudication Commission Regional Adjudication Branch IV-A (“HSAC RAB IV-A,” for brevity), the dispositive portion of which provides:

“WHEREFORE, premised on the foregoing considerations, judgment is hereby rendered as follows:

<sup>1</sup> Records, pp. 501-512.



1. **DECLARING** the respondents to have violated the right of the complainant to inspect the HOA records as provided for in R.A. 9904 and its implementing rules and regulations, and hereby **METED a penalty of disqualification from being elected or appointed as member of the board of the directors, officer or employee of Filinvest Eastville Homeowners Association, and pay the amount of Ten Thousand Pesos (P 10,000.00) each, as administrative fine; and,**
2. **DIRECTING** the Department of Human Settlements and Urban Development Region IV-A, Homeowners Association and Community Development Division (DHSUD IV-A, HOA-CDD) to call, conduct and supervise the election of the herein parties' HOA Board of Directors immediately upon finality of this Decision, which has the power and function to "conduct pre-election conference, creation and defining the powers of Election Committee, formulation of election rules and guidelines, setting of the dates of filing of certificate of candidacy, campaign period and the election, and preparation of the list of members qualified to vote. Expenses and honoraria of the DHSUD IV-A, HOA-CDD representatives for the conduct of the election are chargeable from the funds of the HOA.

The respondents' counterclaim is hereby **DISMISSED**.

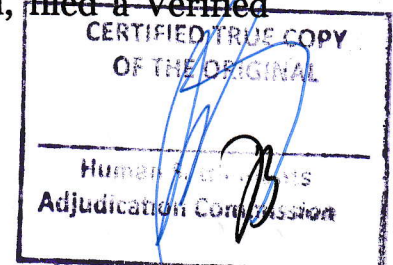
No pronouncement as to costs.

Furnish the DHSUD IV-A, HOA-CDD copy of this Decision.

**SO ORDERED."**

The facts of the case as culled from the records are narrated as follows:

On 01 July 2022, Complainant-Appellee General Jufel C. Adriatico (hereinafter referred to as "Gen. Adriatico"), a resident of Filinvest Eastville, Brgy. San Isidro, Cainta, Rizal, ~~filed a Verified~~



Complaint<sup>2</sup> for declaration of nullity of a referendum, violations of Republic Act (“R.A.,” for brevity) No. 9904, expulsion, and the creation of an interim management committee against respondents-appellants Valles, et al., members of the Board of Directors (“BOD,” for brevity) of Filinvest Eastville Homeowners Association, Incorporated (hereinafter referred to as “FEHAI).

In his Verified Complaint<sup>3</sup>, Gen. Adriatico alleged that on 17 and 18 December 2021, FEHAI, headed by its President Jose Ronald Valles, conducted a referendum for purposes of ratifying proposed amendments to the 1998 FEHAI By-Laws and other policies. Finding the amendments unnecessary because these will allegedly only pave the way for members of the BOD to receive honoraria or financial compensation, Gen. Adriatico abstained from voting.

While further perusing the referendum process, Gen. Adriatico found other irregularities committed by the members of the BOD, such as the purported violation of Section 23<sup>4</sup> of Department Order (“D.O.,” for brevity) No. 2021-07 or the Implementing Rules and Regulations (“IRR,” for brevity) of R.A. No. 9904<sup>5</sup>, issued by the Department of Human Settlements and Urban Development (“DHSUD,” for brevity) on amending the association’s Articles of Incorporation and By-Laws. Gen. Adriatico argued that under Section 23, amendments to the by-laws may be instituted through a referendum by a majority of all members of the association regardless of standing. However, Valles, et al. and the Election Committee (“ELECOM,” for brevity), in determining the quorum during the referendum on 17 and 18 December 2021, applied Section 12<sup>6</sup> of DHSUD Circular No. 2020-0037 and deemed

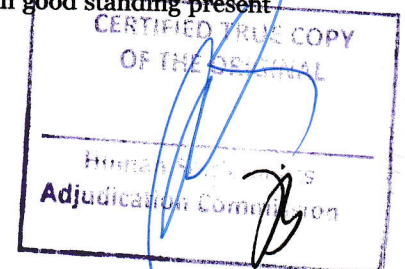
<sup>2</sup> Records, pp. 3-11.

<sup>3</sup> *Ibid.*

<sup>4</sup> Section 23. *Amendment of the Articles of Incorporation and/or Bylaws.* The Articles of Incorporation and/or Bylaws of the association may be amended by the majority vote of all members of the Board, and majority of all members of the association regardless of standing, at a regular or special meeting called for the purpose, or as a result of a referendum after the proposed amendments are discussed in a regular or special meeting of the association members. xxx

<sup>5</sup> An Act Providing for a Magna Carta for Homeowners and Homeowners’ Associations, and for Other Purposes

<sup>6</sup> Section 12. Quorum. The presence of a quorum shall be established by roll call at the beginning of all meetings through remote communication. Members are deemed present when they respond to the attendance roll call cross-referencing the membership roster. Unless the Articles of Incorporation or the bylaws provides otherwise, the presence of the majority of the members in good standing, in person or by proxy, shall constitute a quorum for all meetings. The decision of at least a majority of the members in good standing present



that a quorum is constituted when there is majority of members in good standing.

Gen. Adriatico claimed that Valles, et al. and the ELECOM also erred in applying Section 5, Article VII<sup>8</sup> of the FEHAI By-Laws when they allowed proxies to participate in the referendum. In several instances, respondents-appellants allegedly allowed the use of proxies despite the same being prohibited by the by-laws.

Moreover, Gen. Adriatico argued that Valles, et al. should have first caused the ratification of the 1998 FEHAI By-Laws and the 2000 construction rules and regulations before proposing amendments thereto. Allegedly, respondents-appellants have been serving as members of the BOD for more than five years, yet they have not subjected the old rules and regulations for ratification.

Gen. Adriatico further contended that Valles, et al. repeatedly violated Section 1, Article IV<sup>9</sup> of the FEHAI By-Laws when they held several elections, all of them not falling on the second Saturday of November, as specifically stated in the by-laws. Gen. Adriatico argued that this violation should cause the expulsion of Valles, et al. from the association, pursuant to Section 6, Article II<sup>10</sup> of the FEHAI By-Laws. Gen. Adriatico also claimed that Valles, et al. have long been overstaying their membership in the BOD. They allegedly refuse to resign and have been treating said membership as an enterprise.

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at such meeting at which there is a quorum shall be valid as a corporate act. xxx

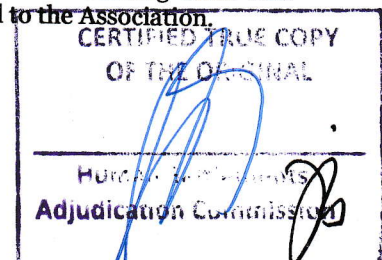
<sup>7</sup> Authorizing and Providing Guidelines for the Use of Alternative Modes of Conducting Meetings and Voting for Homeowners Associations Under Extraordinary Circumstances

<sup>8</sup> Section 5. Quorum. 30% of all members in good standing present in person shall constitute a quorum at any meeting of the members for the transaction of business, and 50% of the quorum shall be sufficient to approve any of all matters brought before the meeting. Proxies are not allowed.

<sup>9</sup> Section 1. Composition, Election and term of office. The association shall be governed and its affairs managed and controlled by the Board of Governors. The Board of Governors shall compose (sic) of fifteen (15) to be elected every second Saturday of November for a term of two (2) years or until their successors are elected and qualified. xxx

<sup>10</sup> Section 6. Expulsion from the Association, Any member may be expelled from the Association on the following grounds: xxx

C. Repeated violations of any of the provisions of this By-Laws or existing rules and regulations of the association, and exhibiting conduct detrimental to the Association.



Lastly, Gen. Adriatico alleged that Valles, et al. continue to refuse to provide him with the records of the BOD election held on 24 June 2017 despite there being a formal request and a letter from the Regional Director of the DHSUD Region IV-A, thereby violating Section 13 (b)<sup>11</sup> of the 2021 IRR of R.A. No. 9904.

Thus, Gen. Adriatico prayed that: (1) the FEHAI referendum held on 17 and 18 December 2024 be declared null and void; (2) Valles, et al. be sanctioned for refusing and be compelled to furnish him with copies of the records of the 24 June 2017 election; (3) Valles, et al. be expelled from being members of FEHAI for violations of the association's by-laws; and (4) an interim management committee be created in the event of respondents-appellants' expulsion and prior to the holding of a special election to elect new members of the FEHAI BOD.

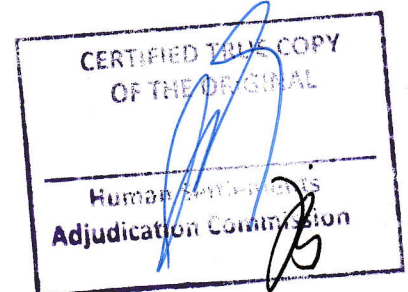
On 29 July 2022, Valles, et al. filed their Verified Answer with Compulsory Counterclaims<sup>12</sup> contending that: (1) Gen. Adriatico is not a member of FEHAI in good standing; (2) officers of the association are allowed by Section 15 (e) of R.A. No. 9904 to receive "honoraria", which is not a form of compensation; (3) while there was indeed a referendum conducted on 17 and 18 December 2021, no irregularities may be found therein; (4) they are not overstaying members of the FEHAI BOD but members of the Board in hold-over capacity; and (5) there was no violation of Gen. Adriatico's right to inspect the books of the association as the latter failed to provide a legitimate purpose for such inspection and the election reports to be examined are no longer maintained by FEHAI.

Valles, et al. opined that they did not misapply the provisions of DHSUD Circular No. 2020-003. This issuance is purportedly the governing law on quorum in all meetings and referenda using remote communication. It did not require total membership as basis for the quorum, but only membership in good standing, in person or by proxy.

<sup>11</sup> Section 13. Rights of a Member. A member shall have the following rights: xxx

(b) Inspect association books and records during office hours and to be provided, upon request, with a copy of annual reports, including financial statements, at the member's own expense; xxx

<sup>12</sup> Records, pp. 318-332.



As to the required affirmative votes to ratify the proposed by-laws, Valles, et al. submitted that FEHAI was incorporated in 1998 and its by-laws were approved by the then Home Insurance and Guaranty Corporation. The same has not been re-registered under R.A. No. 9904 nor issued a Certificate of Incorporation. Hence, the 1998 FEHAI By-Laws should still apply.

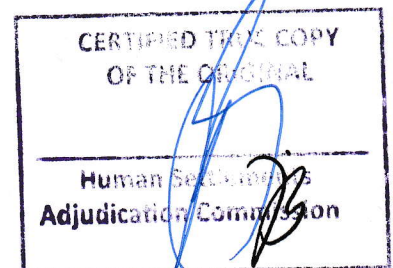
Valles, et al. likewise argued that Gen. Adriatico's Complaint should be dismissed for lack of cause of action or failure to state a cause of action as he allegedly cannot sue in his own capacity. The cause of action, if any, is supposedly premature as the proposed FEHAI By-Laws have not yet been approved by the DHSUD. Similarly, a management committee should not be appointed as there is a functioning BOD in hold-over capacity.

Valles, et al. prayed that the Complaint be dismissed, or in the alternative, that an election supervised by the DHSUD be conducted at the expense of Gen. Adriatico. They likewise prayed that they be awarded actual, moral and exemplary damages, and cost of suit.

On 27 February 2024, HSAC RAB IV-A issued the assailed Decision addressing only the following issues: (1) whether there is a need to implead FEHAI as a party respondent; and (2) whether Valles, et al. are liable for violation of their powers and duties as officers and members of the BOD under the FEHAI By-laws, R.A. No. 9904, and its IRR.

On the first issue, HSAC RAB IV-A ruled in the negative. It held that there is no need to implead FEHAI as a party respondent in this case since whatever its result may be, the association will allegedly not be directly affected.

On the second issue, HSAC RAB IV-A ruled in the affirmative. It held that the quorum required in all association meetings or elections must be in accordance with law. The IRR provides that an association's by-laws may be amended by majority vote of all members of the BOD and majority of all members of the association regardless of standing. In the referendum, the total number of votes cast was only 122 out of the 375 homeowners. Since the majority



vote should have been fifty percent plus one or 188, the total votes cast fell below the majority. Hence, the actions ratified by the general membership were declared null and void. As for the allegation that the construction of pool gazebo was tainted with corruption, the same was deemed regular after Gen. Adriatico failed to adduce evidence to the contrary.

HSAC RAB IV-A also held that Valles, et al. violated Gen. Adriatico's right to inspect the books of the association. Respondents-Appellants' claim that the association maintains records up to only three years, except for its books of accounts and financial records, was contrary to its earlier assertion that the documents were already sealed and may only be ordered opened by the DHSUD.

HSAC RAB IV-A, however, ruled that Gen. Adriatico failed to substantiate his claims of repeated violations by Valles, et al. of the FEHAI By-Laws that would warrant the latter's expulsion from the association. Though there was a violation of the right to inspect the association's records, the same cannot be considered a repeated violation. Furthermore, considering that expulsion is uncalled for, there is no need for the creation of a management committee to handle and manage the affairs of FEHAI.

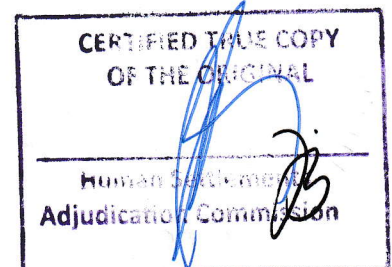
Finally, HSAC RAB IV-A held that, since both parties desired the holding of an election for the members of the FEHAI BOD, it is necessary to direct the DHSUD Region IV-A Homeowners Association and Community Development Division ("HOA-CDD," for brevity) to call, conduct, and supervise said election.

Aggrieved, respondents-appellants filed the instant appeal<sup>13</sup> on 15 March 2024 arguing that:

- I. "The Complaint is a derivative suit and failure to implead FEHAI as a party is a ground for outright dismissal of the Complaint for lack of cause of action.

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<sup>13</sup> Records, pp. 36-40.





- II. Complainant-Appellee failed to allege in his Complaint that reasonable efforts were made to exhaust all remedies available under the association's articles of incorporation, bylaws, laws or rules for the purpose of obtaining the present relief.
- III. The Complaint failed to state a valid cause of action.
- IV. Respondents-Appellants did not violate Complainant-Appellee's right to inspect books and records of the association.
- V. The imposition of an administrative fine and the penalty of disqualification is improper.
- VI. **The Complaint should be dismissed for non-compliance with the requirements of the 2021 HSAC Rules and the 2021 RIRR of RA 9904 concerning election controversies.**
- VII. The present Complaint should be dismissed for being moot.
- VIII. The present Complaint should be dismissed for lack of jurisdiction of the Honorable Office over the controversy.
- IX. The Complainant-Appellant is liable for damages." (*Emphasis supplied*)

For resolution of this Commission *en banc* is the issue on whether the Complaint filed by Gen. Adriatico should be given due course.

Again, in his Verified Complaint<sup>14</sup> filed on 01 July 2022, Gen. Adriatico prayed for the declaration of nullity of a referendum, violations of R.A. No. 9904, expulsion, and the creation of an interim management committee against respondents-appellants Valles, et al. His action stemmed from the conduct of a referendum on 17 and 18 December 2021. The other alleged violations only came to light after he perused the referendum process.

<sup>14</sup> Supra note 2.



Given that what is primarily contested is the referendum, it is only proper to treat the Complaint as an election contest. Section 105, Rule 21 of the 2021 HSAC Rules of Procedure (“2021 HSAC Rules,” for brevity) provides:

**“Section 105. Applicability to Plebiscites, Referendum, and other Electoral Exercises.-** The rules on election contests shall also be applicable to the conduct of plebiscite, **referendum**, and other initiatives involving the association members’ exercise of the right of suffrage.” *(Emphasis supplied)*

As it is an election contest, the Complaint should comply with the 2021 HSAC Rules on the filing of an election contest, to wit:

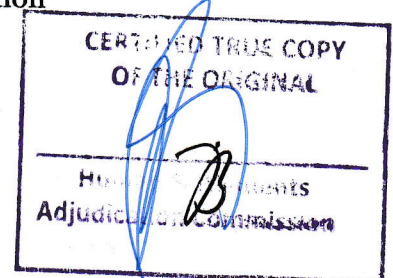
“Section 20. Complaint.- The Complaint shall contain the following: xxx

(g) The following shall be attached to the Complaint upon filing: xxx

(3) In homeowners association cases, a certification issued by the chair of the Election Committee in cases involving elections, or by the **chair of the Grievance Committee or any other committee constituted to resolve any matter in controversy at the association level**, as the case may be, **stating that the parties have been invited to participate in the proceedings to settle the dispute but that no amicable settlement was reached.**

In the absence of an Election Committee and Grievance Committee or refusal of the said Committees or HOA to issue the certification, **an affidavit attesting to this fact shall be made;** and xxx

**Section 98. Filing of Election Contest.-** In addition to the requirements under Section 20 hereof, the Complaint in an election contest must state that **the case was filed within twenty (20) calendar days from receipt of the resolution of the controversy by the Election Committee** pursuant to its election rules or bylaws. If the election



rules or bylaws of the association do not provide for a procedure for the resolution of the controversy, **the Complaint shall be filed within twenty (20) calendar days from the date of the election or date of proclamation**, if the same has been made. xxx” (*Emphasis supplied*)

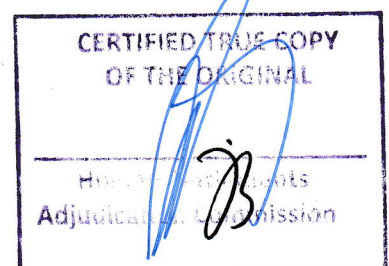
Applying the foregoing rules to the case at bar, Gen. Adriatico should have attached to his Complaint a Certification from the ELECOM or the Grievance Committee that the matter in controversy was raised before it and that the parties were asked to settle, but that no amicable settlement was reached. Should there be no ELECOM or Grievance Committee or should the same refuse to issue a Certification, Gen. Adriatico should have attached to his Complaint an affidavit attesting to such fact. Also, Gen. Adriatico should have filed his Complaint within 20 days from the date of the referendum.

After a thorough perusal of the Complaint and the supporting documents, this Commission *en banc* did not find any Certification from the ELECOM or the Grievance Committee that Gen. Adriatico’s action underwent amicable settlement or any affidavit attesting that there was no Grievance Committee or that the latter refused to issue a Certification. Hence, the Complaint is non-compliant with Section 20 (g) (3), Rule 5 of the 2021 HSAC Rules.

Furthermore, the questioned referendum was held on 17 and 18 December 2021. The Complaint was filed only on 01 July 2022 or more than six months after the event complained of. Thus, the initiatory pleading failed to comply with Section 98, Rule 21 of the HSAC Rules.

It should be emphasized that failure to comply with the requirements of the Rules is a ground to dismiss the Complaint. Section 20, Rule 5 of the 2021 HSAC Rules provides that “non-compliance with any of the above requirements shall be a ground for the dismissal of the Complaint without prejudice.”

Hence, the Complaint should have been dismissed at the outset by HSAC RAB IV-A. Considering the foregoing, this



Commission *en banc* rules that the appeal filed by Valles, et al. should be granted and the Complaint should be dismissed.

**WHEREFORE**, premises considered, the Appeal filed by Jose Ronald Valles, Joyce Felisa Dapat, Barbara Ann de Jesus, Ma. Regina Soliongco, Camille Montano, Allen Diaz, Lester Sinlao, Alex Aaron Rios, Ismael Cervantes, and John Erwin Lavilles is **GRANTED**. The Decision dated 27 February 2024 is hereby **REVERSED and SET ASIDE**. The Complaint filed by General Jufel C. Adriatico on 01 July 2022 is **DISMISSED WITHOUT PREJUDICE** for failure to comply with the 2021 HSAC Rules of Procedure.

**SO ORDERED.**

Quezon City, Philippines. 25 APR 2024

  
**MELZAR P. GALICIA**  
*Executive Commissioner*

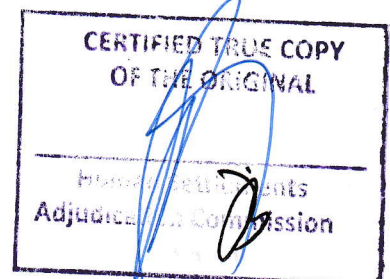
We concur:

  
**FIDEL S. EXCONDE, JR.**  
*Commissioner*

  
**SERGIO E. YAP II**  
*Commissioner*

  
**JOHN T. MAHAMUD**  
*Commissioner*

  
**MICHAEL R. CLORIBEL**  
*Commissioner*



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REPUBLIC OF THE PHILIPPINES  
**Human Settlements  
Adjudication Commission**  
*Komisyon sa Adhukasyon para sa Pananahang Pantao*

*MSC*



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