

1 STATE OF NEW YORK:

2 BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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4 Public Hearing Regarding
5 600 High Avenue, LLC

6 - - - - -

7 A Public Hearing held at 1009 Main Street,
8 Endicott, New York, on the 10th day of January, 2019,
9 commencing at 5:02 PM.

10
11 BEFORE: JOSEPH B. MEAGHER, ESQ
12 Counsel for Broome County
13 Industrial Development Agency

14
15 REPORTED BY: CZERENDA COURT REPORTING, INC.
16 71 State Street
17 Binghamton, New York 13901-3318
18 JESSICA BRIELMEIER
19 Shorthand Reporter
20 Notary Public
21 Binghamton - (607) 723-5820
22 (800) 633-9149

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600 High Avenue, LLC

1 HEARING OFFICER: Good evening.

2 Let the record reflect it's presently 5:02
3 PM. My name is Joseph Meagher and I am
4 counsel to the Broome County Industrial
5 Development Agency.

6 The agency is conducting a hearing
7 pursuant to General Municipal Law Section
8 859A to seek public comment on the
9 application for financial assistance
10 submitted by 600 High Avenue, LLC, or a
11 related entity to be named later in
12 connection with a 70-bed adult home, 35-bed
13 assisted living program and 150-bed
14 residential care facility to be below
15 located at 600 and 601 High Avenue in the
16 Village of Endicott, County of Broome, and
17 State of New York.

18 The acceptance of the filing by the
19 Agency does not infer any position on the
20 approval or disapproval of the financial
21 assistance requested. No position will be
22 taken by the agency until the public hearing
23 is concluded.

24 A copy of the application, along

600 High Avenue, LLC

1 with a cost benefit analysis prepared by the
2 agency is available at the agency's office
3 for your review.

4 Notice of this hearing was
5 published in the PRESS & SUN-BULLETIN on
6 December 30, 2018. And I request that each
7 person wishing to speak state his or her
8 name, and if you are speaking on behalf of
9 an entity or organization, please identify
10 that entity or organization. The hearing
11 will remain open until all public comment is
12 concluded.

13 First, I'm going to request that
14 Stacey Duncan, the Deputy Executive Director
15 of the agency, explain the benefits that
16 have been requested by the applicant, 600
17 High Avenue, LLC.

18 Stacey.

19 MS. DUNCAN: Thank you, Joe.

20 The 600 High Avenue, LLC, is
21 seeking a 20-year deviated pilot from the
22 Broome County IDA. As mentioned, the
23 project consists of the purchase of real
24 estate and assets of Ideal Senior Living

600 High Avenue, LLC

1 facility located in the Village of Endicott.
2 The applicant will assume operations of the
3 facility, which include a 70-bed adult home,
4 35-bed assisted living facility, and 150-bed
5 residential health care facility.

6 This center was previously owned by
7 United Health Care, a nonprofit health care
8 entity headquartered in Broome County. The
9 Village of Endicott approved term for a
10 deviated pilot per the requirement of the
11 IDA uniform tax exception policy. This
12 project will create six new jobs over three
13 years and will preserve more than 260 jobs
14 currently at that location.

15 HEARING OFFICER: Thank you,
16 Stacey. All right.

17 Does anyone wish to be heard either
18 for or against this application?

19 SUZANNE McLEOD: Hi, my name is
20 Suzanne McLeod. I'm the superintendent of
21 the Union-Endicott Central School District.
22 And while I'm not here at the request of the
23 Board of Education to specifically state a
24 concern with this specific deviated pilot,

600 High Avenue, LLC

1 the Board asked me to convey to the IDA two
2 concerns regarding pilots and deviated
3 pilots in general as it appears -- as it
4 refers to the school district. And I'm sure
5 that the agency is well-aware of these, but
6 I have been asked to reiterate.

7 First of all, as you know, school
8 districts and municipalities are now held to
9 a tax levy limit. Everyone thinks that the
10 2012 law is 2 percent. Well, it is not
11 2 percent. It is a 13-step formula that we
12 are required to follow. And two of the
13 steps involved pilots, in which an approved
14 pilot, you have to deduct that value from
15 your tax levy limit calculation.

16 So I brought with me Ms. Wolfe, our
17 school business official. We are already
18 preparing the 2019-2020 school district
19 budget for the voters of the Union-Endicott
20 Central School District. Right now,
21 preliminarily, it looks like our approved
22 tax levy limit will not even be 2 percent.
23 It will be more down in the range -- I mean,
24 it will be close, it will be about 1.9.

600 High Avenue, LLC

1 However, with the approval of this
2 pilot, it comes right off the top, so it
3 will reduce our allowable tax levy limit.
4 The thinking when the legislature put this
5 formula together was that, well, when you go
6 off pilot, then you get back on your
7 assessment. And so, in 20 years, we will
8 get the value back onto the tax levy limit.

9 There's a political challenge in
10 that swing that we have to deal with. In
11 that -- as I said, at the beginning, the
12 community thinks 2 percent, 2 percent, 2
13 percent. Let's say 20 years from now -- and
14 granted, I will be in that nursing home in
15 20 years, but I still have a responsibility
16 to the community to make sure that 20 years
17 from now when they get a totally legal,
18 maybe 4 percent levy, depending on how the
19 value of the property goes, that it's
20 voteable. Because we are the only entity,
21 we are the only municipality, school
22 districts are, that are required to submit a
23 budget to the voters, and it must pass voter
24 approval.

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1 If we try to deviate from the tax
2 levy limit, it has to be passed by a super
3 majority, so that's point number one.

4 Point number two, this will be our
5 second pilot in three years, and I know that
6 there's another development that's looking
7 and probably will be applying for a deviated
8 pilot. We were assured that Sky View
9 Heights -- is that what it's called? The
10 new development up on the hill was a senior
11 living center and there would be no children
12 in there.

13 As of this morning, we have six
14 students living in those residences. That's
15 a cost bore by the entire community because
16 the deviated pilot -- another 20-year
17 deviated pilot does not begin to cover the
18 cost of educating those children.

19 Just something that our Board of
20 Education wishes that the agency kept in
21 mind when they were -- when you're looking
22 at pilots, especially deviated pilots.

23 Thank you.

24 HEARING OFFICER: Thank you. And

600 High Avenue, LLC

1 just so you are aware, Ms. McLeod, the
2 stenographer is taking down your remarks and
3 they will be typed and presented to the
4 Board.

5 SUZANNE McLEOD: Okay. Thank you
6 very much.

7 HEARING OFFICER: Does anyone else
8 wish to be heard?

9 THOMAS AUGOSTINI: Yes. Tom
10 Augostini. I actually have written
11 comments, do you just want me to give it to
12 the stenographer? I just want to read
13 the --

14 HEARING OFFICER: Yeah. Why don't
15 you read them and then we'll make copies and
16 submit them to the board.

17 MR. AUGOSTINI: Okay. I'm a
18 member of the Town of Union Council, but our
19 supervisor here and another board member is
20 here. I'm not speaking on behalf of the
21 Town Council. So I appreciate the
22 opportunity to speak tonight.

23 What I think this deviated pilot
24 is, is a deviated pilot, really, on

600 High Avenue, LLC

1 steroids. It's unfair, it's too aggressive
2 in terms of the tax abatement that it
3 allows, and it goes for too long a period of
4 time, 20 years.

5 So why do I say that? This is
6 nothing more than an asset purchase. All
7 they're doing is buying Ideal Senior Living
8 Center. They're not constructing anything.
9 They're not developing anything. They're
10 not improving the facility and they're not
11 adding programs to it. It's the purchase of
12 what's already there.

13 And if property taxes are too high
14 when you purchase something, do what every
15 other business owner does or whatever
16 individual does for residential or
17 commercial or business property, industrial
18 property, come in and challenge the
19 assessment. And if you challenge the
20 assessment and get it lowered, you'll pay
21 less property tax. This is the wrong way to
22 get or to pay less property tax.

23 So, in addition to this just being
24 just a straight purchase of an existing

600 High Avenue, LLC

1 facility and being able to just come in and
2 challenge your assessment -- they own other
3 facilities in the area, this group does.
4 And I have a lot of respect based on some of
5 the research that I've done for what they
6 provide to the community that they are in.
7 From what I understand, they have a great
8 relationship with New York State and the
9 communities that they are in and the
10 services they provide, but if you look at
11 their other facilities in the area,
12 Bridgewater Nursing Home in the City of
13 Binghamton, there's no pilot agreement. So
14 how is that able to survive with no tax
15 abatement?

16 Vestal Park and Rehab Center, there
17 is a pilot agreement on that. That pilot
18 agreement is nowhere near the aggressiveness
19 or the egregiousness of the pilot that they
20 are requesting on Ideal Senior Living
21 Center. Absolut Care that is based in the
22 Village of Endicott, that was purchased as
23 recently of February of 2018, so 11 months
24 ago. That was a straight purchase just like

600 High Avenue, LLC

1 Ideal is, no pilot agreement.

2 And they're paying \$305,000 in
3 property taxes combined on Absolut Care,
4 which is in the Village and very close, and
5 not even close to having the value that
6 Senior Ideal Living has.

7 So to back up the facts on that,
8 that was purchased in February of 2018.
9 They grieved the assessment. The town
10 negotiated the value of that at \$5.6
11 Million, that's 160-bed facility. Ideal
12 Senior Living Center is 150, the beds are
13 comparable, but there's 105 apartments at
14 Ideal, which makes it extremely more
15 valuable.

16 So, to me, the starting point on
17 the assessment is 5.6 million or 305,000 in
18 property taxes, not 65,000.

19 The other facilities that they own
20 -- those are three, so the fourth one is
21 Beechtree Center For Rehab & Nursing in
22 Tompkins County. Tompkins County had a
23 standard pilot of seven years. Same owners
24 went in and asked just for a deviation of

600 High Avenue, LLC

1 ten years with a little more aggressiveness
2 on the front end of it. So it did look a
3 whole lot different, it was ten years
4 instead of seven years, and the percentages
5 fluctuated a little bit.

6 The difference in that is, in their
7 facility in Tompkins County, they had to
8 invest 1.3 million in upgrades. So I can
9 understand the pilot on that one. If you're
10 going to invest 1.3 million, a pilot is a
11 fair way of trying to re-coop some of that
12 investment back. But, again, no upgrades to
13 the facility at Ideal Senior Living Center.

14 So just to go over some of the
15 numbers. So the owners in their application
16 have said that 763,000 is not viable in
17 terms of total property taxes for that
18 facility. So -- and it's all in my packet
19 here. Over the 20 years, what they would
20 pay under their schedule compared what they
21 would pay if it just went from tax exempt to
22 non-exempt, it's over 88 percent abatement
23 on their property taxes. 88 percent is over
24 20 years, that's absurd.

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1 I completely understand the
2 purchase of a facility and trying to re-coop
3 their money or their investment. It can't
4 take 20 -- you can't tell me any business
5 would go in and say it's going to take us
6 20 years to implement or incorporate changes
7 to make it viable.

8 My last point that I'll make is,
9 with the purchase of Ideal Senior Living
10 Center, the group will now control over
11 50 percent of the nursing beds in Broome
12 County. This makes them a dominate player
13 in the county. Makes their operations more
14 valuable, makes their business motto much
15 more valuable. They can be flexible on the
16 payer mix, owning half of the beds in Broome
17 County. They can adjust their -- be more
18 flexible on how their employment and their
19 employees work amongst their facilities.

20 Controlling 50 percent and giving
21 them an 88 percent tax abatement just
22 doesn't make sense. I have all of the
23 property tax records, the taxes that they've
24 paid to the City of Binghamton, the most

600 High Avenue, LLC

1 recent year. To the Town of Vestal, City of
2 Binghamton on Bridgewater nursing facility,
3 they paid almost 550,000 in total taxes.
4 They pay in the Town of Vestal at the Vestal
5 Park & Rehab Center, they pay over 460,000
6 in property taxes on that facility. I
7 mentioned Absolut is 305,000 that they pay.
8 I don't have the exact numbers for Tompkins
9 County, because I couldn't get their
10 property tax records off the website.

11 But \$65,000, incrementally, it goes
12 up after six years, so it phases into year
13 16 to 20 where then they would be \$112,000,
14 which according to their application, is
15 half of what they say that the facility can
16 pay and still be viable. Their application
17 says they can afford 225,000 to 250,000 in
18 property taxes, and they only get to the
19 halfway point from years 16 to 20.

20 And, again, I just can't highlight
21 enough that over the course of the 20 years,
22 even though I say it's an 88 percent
23 abatement, the numbers, to me, are just
24 staggering. So over a 20-year period where

600 High Avenue, LLC

1 they would pay \$15,271,000, out of that
2 amount, they don't have to pay \$13,555,000.

3 So over that 20-year period of
4 time, they're being asked to spend \$1.7
5 Million out of over 15 million. And it just
6 seems like it's unfair, it's unreasonable,
7 and I completely understand, like I said,
8 the whole purpose of pilot is to incentivize
9 and provide a catalyst in order to develop
10 or redevelop or re-energize something that
11 either isn't there or needs to be revamped.

12 That's not the case with Ideal
13 Senior Living Center, it's already there,
14 it's already working, and we know that UHS
15 loses money on it. Why? Because their
16 mission-driven. They don't say "no" to
17 anybody because their mission says they're
18 just going to provide the services and if
19 they can't make money on it, that's okay,
20 they have other operations.

21 These gentlemen are in the business
22 to make a profit and that's okay. Nobody
23 disputes that or argues that. It's just
24 that this property tax abatement has the

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1 appearance that we're subsidizing the sale
2 of that property to the new owners, and that
3 should not be allowed.

4 If anyone wants a copy, feel free.

5 HEARING OFFICER: I'll take one,
6 Tom. And we'll add it to the record of
7 these proceedings.

8 THOMAS AUGOSTINI: I appreciate
9 that.

10 So I'll just make one last comment:
11 Pilots do serve a purpose, but they need to
12 be reasonable and dependable. This deviated
13 pilot arrangement that's being proposed for
14 the IDA does neither one of those. And so,
15 I'm asking the IDA -- and I'll be at the
16 Tuesday board meeting, too. I'm asking the
17 IDA to reject it, to say no, and let's just
18 start over again and get something that's
19 reasonable. Thank you.

20 HEARING OFFICER: Thank you, Tom.

21 Does anybody else wish to be heard?

22 HARVEY MERVIS: Just to address a
23 few of Mr. Augostini's comments.

24 The problem with --

600 High Avenue, LLC

1 HEARING OFFICER: Harvey, would
2 you address yourself --

3 HARVEY MERVIS: Harvey Mervis,
4 Hinman, Howard & Kattell. I represent the
5 owners of the nursing homes in question for,
6 probably getting on to 20 years now, and
7 they own presently 12 nursing homes across
8 the state and a number around here, as
9 Mr. Augustini alluded to.

10 It's a very difficult operation to
11 run and manage and provide care. The
12 problem is that if you come into it with too
13 much burden, too much debt, then care
14 suffers. And I was involved in a purchase
15 in Otsego County, the county nursing home
16 there, with our client bid and a number of
17 other entities bid, but the winning bidder
18 bid the most money. Within a couple years,
19 he was arrested and the allegations, which
20 resulted in a misdemeanor, was that care --
21 sufficient care was not provided.

22 So the care is critical for the
23 residents and for the continued operation of
24 the facility by the owner and having a good

600 High Avenue, LLC

1 relationship with the State of New York and
2 the Department of Health. And that's very,
3 very difficult because it's hard to find
4 people to -- good people to work.

5 You have to pay enough money
6 competitive with the environment that you
7 are in and sometimes more. And that won't
8 affect the cash flow to the point where you
9 are losing substantial money. They lose
10 money at some of these nursing homes some
11 years. And that has to come out of their
12 pockets, so they have to have the financial
13 wherewithal to make up losses when they
14 occur. And if your reputation drops, you
15 know, your census drops, and that occurs.
16 And they can't suffer substantial losses
17 year after year because there's an end to
18 it, there's not an endless pocket. So they
19 have to watch out for that, that the burden
20 they're assuming is not too great.

21 So, Mr. Reidy here is in the
22 healthcare business and he's very good at
23 it, and he's been their financial consultant
24 and banker for 20 years. And it's his

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1 projection -- this is what -- at a certain
2 point it's based on some good information,
3 and then there's objections from that point
4 forward, but this could be a losing
5 proposition. And it's not a normal kind of
6 purchase where you're entering into a
7 profitable environment.

8 Absolut was run by for-profit
9 people, and as you said, the UHS model was
10 completely different. We, as the buyers,
11 assume some of that burden of that model.
12 It's just not going to be a transition to a
13 new for-profit model facility. There's some
14 of that mission statement, as you said,
15 that's carried over because UHS had that
16 desire not to make a complete change in that
17 regard, so some of that is carried over as
18 well.

19 So it's a very, very complicated
20 analysis involving the possibility that
21 there will be losses and assuming that risk.
22 The advantage of having, on a separate
23 issue, more than one facility, and the
24 ownership has facilities concentrated in

600 High Avenue, LLC

1 Albany -- how many in Albany?

2 WALTER REIDY: Maybe four,
3 Syracuse --

4 HARVEY MERVIS: Yeah, and
5 Syracuse.

6 The nursing home environment, the
7 owners are now concentrating in specific
8 areas so they can have more flexibility in
9 having good employees so they can move them
10 from one facility to the other, so it's
11 never a drop -- a substantial drop in care
12 because of lack of personnel. So it gives
13 more flexibility and more ability to staff
14 appropriately the facilities and that's the
15 trend.

16 And so, you're right to be
17 concerned about it, and DOH is very
18 concerned about that, so they are all over
19 that as well. But there are advantages --
20 care advantages that's well-recognized by
21 the state, but they look at those issues.

22 I guess that's all I want to say,
23 but this is not a county nursing home. And,
24 by the way, the county nursing homes across

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1 the state are just -- they are smaller and
2 smaller group of entities, because those
3 facilities of the money, by and large, is --
4 they lose money and the taxes come out of
5 the county.

6 So it's a -- there's no one to pay
7 the price when you have a bad year, it comes
8 right out of your pocket and they have to
9 step up.

10 And I'll tell you something else,
11 there's personal liability for each and
12 every one of those residents in that
13 facility under the Public Health Law. And
14 it's a very, very difficult business and a
15 very stressful business to be in. And
16 there's just a lot of facilities and a lot
17 of people who had to go out of business and
18 have lost a tremendous amount of money and
19 because of failure to operate property.
20 These people have been in business a long
21 time, have a solid operation, are not
22 pulling out so much money that the care is
23 jeopardized and they reach into their pocket
24 and have the ability to carry it through

600 High Avenue, LLC

1 should be, the assessor should have been
2 involved at some level. How you could --
3 how this whole agreement could ever be
4 negotiated without ever talking to Joe Cook,
5 who's from the Town of Union, I can't
6 understand that. This is a person who is
7 the expert in our community on what property
8 is worth and what's fair, and that's what he
9 does for a living, and he's been at it and
10 he's good at it. To circumvent him entirely
11 seems to be the wrong approach.

12 I would suggest going back, start
13 over again, sit down with the town assessor
14 and figure out what the property is worth,
15 find out what these people are willing to
16 pay and what they can handle and what would
17 be fair, and then offer something that's
18 fair.

19 HEARING OFFICER: Thank you.

20 FRANK BERTONI: Thank you.

21 CHARLES COLLISON: Charles
22 Collison, attorney for the Village of
23 Endicott. There's several points that I
24 would like to bring up.

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1 from Hinman's office, we negotiated, we
2 rationalized that we wanted to keep this
3 business. We understood they were paying
4 much more for Absolut, but we wanted to keep
5 this facility going. We acted in good faith
6 and all these arguments that are made today,
7 why weren't they made at the town board
8 meeting -- at the village board meeting.

9 Now, the second point that
10 Mr. Bertoni made really annoys me. He
11 states that the Town of Union should be
12 involved even though it's statutorily the
13 Village of Endicott. However, many years
14 ago when Huron was seeking -- reduction in
15 taxes, which was 1.9 million, and most of
16 these buildings are in Endicott, the Town of
17 Union refused -- refused -- to let us see
18 what they were doing and negotiating. Now
19 he has the nerve to come in and say we have
20 an obligation to go back to him.

21 Well, what's good for the goose is
22 good for the gander. We had no say in the
23 1.9. It went to Supreme Court and found a
24 section of law that we could be an

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1 intervener, and I was still shut out.
2 Whatever they negotiated, we were stuck
3 with, so don't tell me that we should go to
4 Cook or you for approval. We think we acted
5 in good faith and should be approved.

6 HEARING OFFICER: Thank you. All
7 right.

8 Does anybody else wish to be heard?

9 RICK MATERESE: Rick Materese,
10 1425 Campville Road. I'm currently the Town
11 of Union's supervisor.

12 I don't have the expertise that my
13 board members, fellow board members have on
14 this issue, and I don't have the history
15 with the village and the town with the
16 assessment. What I would like to say is
17 whatever you do with this issue, going
18 forward, maybe we should put bygones behind
19 us and work together as a community. It
20 seems like the assessor should've been
21 involved, but it seems like then you
22 should've been involved back then. Let's
23 not work on bad issues, let's work with good
24 faith going forward.

600 High Avenue, LLC

1 HEARING OFFICER: Thank you.

2 Does anyone else wish to be heard?

3 (Whereupon there was no response)

4 HEARING OFFICER: I'll ask again.

5 Does anybody else wish to be heard?

6 (Whereupon there was no response)

7 HEARING OFFICER: And one more

8 time.

9 Does anyone else wish to be heard?

10 (Whereupon there was no response)

11 HEARING OFFICER: Hearing none,

12 I'm going to call this hearing to a

13 conclusion. And I'm going to provide to the

14 stenographer the notice of public hearing;

15 the affidavit of publication; the letter

16 provided to the taxing authorities; the

17 affidavit of mailing; and the affidavit of

18 posting, and ask that those documents be

19 spread upon the record of these proceedings.

20 And, as I mentioned after

21 Ms. McLeod spoke, that a transcript of

22 everything that's been said this evening

23 will be prepared, and our stenographer has

24 indicated she will have it to me tomorrow.

600 High Avenue, LLC

1 And at that point -- I'm not putting too
2 much pressure on you -- by end of day. And
3 we will provide it to all of our board
4 members who will have an opportunity to
5 review it, including Mr. Augustini's
6 documents that he's provided to us. Okay.

7 And the board members, again, will
8 have an opportunity to review all that prior
9 to making a decision on this.

10 Thank you all for coming. We
11 appreciate it.

12 (Whereupon Exhibits 1 through 6
13 were marked for identification)

14 (Whereupon the hearing concluded at
15 5:36 PM)

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600 High Avenue, LLC

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1 STATE OF NEW YORK :

2 COUNTY OF BROOME :

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4 I, JESSICA BRIELMEIER, Shorthand Reporter,
5 do certify that the foregoing is a true and accurate
6 transcript of the proceedings in the matter of a Public
7 Hearing Regarding 600 High Avenue, LLC, held in
8 Endicott, New York, on the 10th day of January, 2019.

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JESSICA BRIELMEIER

13

Shorthand Reporter

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Notary Public

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CZERENDA COURT REPORTING, INC

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COMPUTER OPERATOR: LORI KRALY

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