City of Dover

## MAYOR AND COUNCIL

**DRAFT PROPOSED COUNCIL RESOLUTION NO. 2009-01**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That the Mayor and Council have determined that the Charter of the City of Dover, Article IV - Financial Affairs, Section 50 - Debt Limit, Subsection (c)(i) should be amended by removing the $3,000,000 limit on borrowing without a referendum, while maintaining a threshold of 1/4 of one percent (.25) of taxable assessed value of real property of aggregate principal amount. Therefore, the Mayor and Council of the City of Dover respectfully request the General Assembly of the State of Delaware to amend its Charter, which amendment if adopted by the General Assembly would be as follows:

> (i) To finance public storm sewers, streets and appurtenances provided that no more than 1/4 of one percent (.25%) of taxable assessed value of real property of aggregate principal amount of bonds may be issued at any one time pursuant to this clause and any new bonds issued pursuant to this clause may not cause the total aggregate principal amount of bonds outstanding at any one time to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and

ADOPTED: *

KENNETH L. HOGAN
COUNCIL PRESIDENT

CARLETON E. CAREY, SR.
MAYOR

SYNOPSIS

This amendment would remove the $3,000,000 limit on borrowing without a referendum, while maintaining a threshold of 1/4 of one percent (.25) of taxable assessed value of real property of aggregate principal amount

Actions History

Jan 12, 2009 - Introduced in Legislative, Finance, and Administration Committee

Draft

January 27, 2009

Sponsor:_____

House of Representatives
145th General Assembly
House Bill No.____

AN ACT TO AMEND THE CHARTER OF THE CITY OF DOVER BEING CHAPTER 175, VOLUME 75 OF THE LAWS OF DELAWARE, AS AMENDED, REGARDING BOND ISSUING AUTHORITY

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each House concurring therein):

Section 1. Amend Section 50 of Chapter 175, Volume 75, Laws of Delaware, by deleting clause (i) of Paragraph (c) of Section 50 in its entirety and inserting in lieu thereof the following new clause (i):

(i) To finance public storm sewers, streets and appurtenances provided that no more than 1/4 of one percent (.25%) of taxable assessed value of real property of aggregate principal amount of bonds may be issued at any one time pursuant to this clause and any new bonds issued pursuant to this clause may not cause the total aggregate principal amount of bonds outstanding at any one time to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and

Section 2. This Act shall be effective upon its enactment in accordance with law.

SYNOPSIS

This act would remove the $3,000,000 limit on borrowing without a referendum, while maintaining a threshold of 1/4 of one percent (.25) of taxable assessed value of real property of aggregate principal amount

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**CITY OF DOVER - PROPOSED CHARTER AMENDMENT IN FULL CONTEXT**

**Article IV - Financial Affairs, Section 50 - Debt Limit**

(a) Whenever the needs of the city shall require more money than is at the time in the city treasury from current receipts, the council shall be authorized and empowered to anticipate current revenue by borrowing such sums as shall be needed not in excess of one percent of the total taxable assessment for a general tax. The amount so borrowed shall be paid back out of current revenue received thereafter.

To exercise the power aforesaid the council shall adopt a resolution to that effect, which resolution shall require the affirmative vote of at least three-fourths of all the members of the council, and the approval of the mayor. The indebtedness created under this section shall he evidenced by the bond, or note, of the city, and the faith and credit of the city shall be deemed to be pledged thereby.

(b) The mayor and council is hereby authorized and empowered to borrow from time to time on the faith and credit of the City of Dover sums of money for such purposes as may be deemed necessary and proper by the mayor and council of the said city which purpose shall be consistent with the powers conferred upon the mayor and council of the City of Dover by the Charter thereof, as amended, for the management and maintenance of the said city and for these purposes the mayor and council shall have full power and authority to issue bonds of the said "City of Dover."

The aggregate of the amounts so borrowed together with all other bonded indebtedness for which the full faith and credit of the City of Dover has been pledged shall not at any time exceed a sum equal to five percent of the total assessed value of real property situate within the bounds of the City of Dover as such boundaries shall from time to time appear.

The said bonds shall be issued in one or more series, shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, shall be payable at such time or times, and at such place or places, shall be in such denominations, and shall contain such other provisions as the mayor and council may provide and shall be set forth in the said bonds. Said bonds may or may not be coupon bonds and may he registered or otherwise as the mayor and council deem advisable.

The mayor and council shall direct and effect the preparation and sale of said bonds at such time or times, at such price or prices, and upon such terms as the said mayor and council deem advisable, and all the monies arising from the sale of said bonds shall be used for the municipal purposes of the City of Dover specified in the resolution authorizing their issue.

The form of said bonds and of any coupons which may be thereunto attached shall be as prescribed by the mayor and council, and all such bonds shall be signed by the mayor and the treasurer of the City of Dover and sealed with the corporate seal thereof. Facsimile signatures of the mayor and treasurer and a facsimile of the corporate seal may be imprinted upon such bonds and any coupons attached to said bonds in lieu of the signatures of the said mayor and treasurer in their own handwriting and of the affixing of the corporate seal itself.

Said bonds of the City of Dover shall be exempt from all state, county and municipal taxes.

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The mayor and council of the City of Dover are hereby authorized and required to levy and raise by taxation in each and every year such sums of money as may be required to pay the interest accrued on said bonds while all or any of said bonds remain unpaid, and the said mayor and the city council are further authorized and required to levy and raise by taxation, from time to time such sum or sums of money as shall be needed to establish such sinking funds as the said mayor and the city council may at their discretion authorize for the redemption of said bonds, or any of them, at or before their maturity and such sum or sums of money as shall be required to otherwise redeem any or all or said bonds at or before their maturity. Taxes for interest and for redemption of said bonds shall be levied and raised as taxes for general municipal purposes in the said city are levied and raised and shall be in addition to those levied and raised for any and all other municipal purposes.

A statement appearing in the bonds issued under the provisions of this section to the effect that the bonds have been duly authorized shall be deemed and held to be conclusive evidence in favor of the lawful holder of any such bonds that the terms and conditions of this section have been fully met and complied with.

(c) Bonds may he authorized and issued pursuant to subsection (b), without a referendum vote, by a resolution of the council which shall have the affirmative vote of three-fourths of the members thereof and the approval of the mayor, for the following purposes:

(i) To finance public storm sewers, streets and appurtenances provided that no more than 1/4 of one percent (.25%) of ~~**total**~~ **taxable** assessed value of real property ~~**or 3 million dollars, whichever is less,**~~ of aggregate principal amount of bonds may be issued at any one time pursuant to this clause ~~**(i)**~~ and any new bonds issued pursuant to this clause ~~**(i)**~~ may not cause the total aggregate principal amount of bonds outstanding at any one time ~~**pursuant to this clause (i)**~~ to exceed one percent of the total taxable assessment for a general tax at the time such new bonds are issued; and

(ii) To refund bonds secured by the city's full faith and credit, prior to their stated maturity, provided that (A) the present value of the aggregate principal and interest payments of the refunding bonds are not greater than the present value of the aggregate principal and interest payments on the bonds to be refunded determined by discounting at the effective interest rate on the refunding bonds, calculated based on the internal rate of return: and (B) at the time of issuance of the refunding bonds there are deposited in escrow, pledged to secure the refunded bonds, sufficient monies and/or direct obligations of, or obligation the principal of and interest on which are guaranteed by, the United States government, which, without regard to any reinvestment earnings, will be sufficient to pay when due all interest, principal and redemption price on the refunded bonds at maturity or upon earlier call for redemption.

(d) Except for bonds issued pursuant to subsection (c) hereof, all bonds issued under the provisions of subsection (b) shall first be approved by a referendum vote of the qualified voters (as herein defined) of the City of Dover.

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Notice of the holding of such referendum election shall be authorized by resolution of the mayor and council, published once a week, for at least three consecutive weeks in at least one newspaper circulated in the City of Dover, Delaware. Such notice shall be set out in summary form the amount and purposes of such bond issue, the date and place of holding the referendum election and the hours the polls will be open.

At said referendum election "qualified voter" shall mean every natural person who is a resident or a nonresident taxable of the city, of the age of 18 years or upwards. Each qualified voter shall be eligible to vote and shall have one vote.

The city assessor or his/her designee shall attend the election with the last city assessment and tax payment records for the inspection of the election officers. The referendum election shall be held at such date as the mayor and council shall designate. The referendum election shall be held at such suitable place in said city as the mayor and council shall designate in said published notice. The polls shall be open from 7:00 a.m. (local time), and shall close at 8:00 p.m. (local time). The judge of the election shall, in the case of a tie vote on the bond issue, cast the deciding vote, otherwise judge of the election shall refrain from voting, but the election clerks may vote.

The total votes cast for and the total votes cast against the bond issue shall be certified as correct by at least two of the election officers and delivered to the mayor, or to the clerk of council immediately after the total vote count has been certified.

The mayor and council shall at the next regular meeting after the election, or at a special meeting, receive the results of the referendum election and make the same a part of the minutes of said meeting, whereupon if a majority of the votes cast were for the bond issue bonds herein provided for may be issued and sold as provided in subsection (b), but if at such referendum election the majority of the votes cast were against the bond issue, then no bonds shall be issued nor shall any money be borrowed pursuant to the resolution submitted to the referendum.

(e) In addition to the power otherwise granted in this section, the mayor and council may issue special assessment revenue bonds to finance those public projects for which the city may levy and collect special assessments pursuant to section 28 of this Charter. Such bonds shall not obligate the faith and credit of the city, but shall be payable solely from the proceeds of the special assessments which are pledged to the payment thereof. Such bonds shall be authorized without a referendum vote by a resolution of the council which shall have the affirmative vote of three-fourths of the members thereof and the approval of the mayor.

(f) After authorization of the sale of bonds as provided in this section and in anticipation of the sale and issuance of said bonds, the mayor and council may borrow money and issue notes of the city for the purpose and to the extent of the amount of bonds authorized to be sold, less the amount of any bonds theretofore issued under such authority. The said borrowing shall be authorized by a resolution of the council which shall have the affirmative vote of three-fourths of the members thereof and the approval of the mayor, and the note or notes thereby authorized shall be signed by the mayor and treasurer of the city. When issued and signed in accordance with this subsection (f), the faith and credit of the city shall be deemed to be pledged for the repayment of all said notes, except those issued pursuant to subsection (e) hereof.

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The note or notes issued in anticipation of a bond issue may be renewed from time to time, but the proceeds of the sale of such bonds shall, to the extent necessary, be first used to pay and retire such notes. Said notes may be deemed at par and accrued interest at any time prior to their maturity if the right so to do shall have been reserved.

(g) For the purposes of the debt limitations prescribed in this section, (i) any bonds which have been refunded pursuant to subsection (c)(ii) shall be treated as no longer outstanding; and (ii) bonded indebtedness, principal amount of bonds and bonds outstanding shall be determined without regard to original issue discount.

(Amend. of 7-12-2005 (S.B. 126) ; Amend. of 7-12-2007 (SB 146), §§ 1, 2)

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## McDowell, Traci

**From:** William Pepper [wpepper@schmittrod.com]
**Sent:** Monday, January 05, 2009 11:20 AM
**To:** McDowell, Traci
**Cc:** Mitchell, Donna; Russell, Cheryl
**Subject:** Re: 01-12-2009 LF&A PACKET.pdf - Adobe Acrobat Professional

Looks okay in general. I do not agree that the requirement that the assessor be a freeholder is archaic. I continue to believe that the public will be offended if the assessment is done by someone who does not own property in the municipality.

William W. Pepper Sr., Esquire
Schmittinger and Rodriguez, P.A.
414 South State Street
P.O. Box 497
Dover DE 19903
302.674.0140
wpepper@schmittrod.com

On Jan 1, 2009, at 8:42 PM, McDowell, Traci wrote:

Please review the attached LF&A packet – Charter Amendments and let me know as soon as possible if you have any changes.

Mr. Pepper – You were provided the Tax information previously – please review this packet instead (information is the same just includes Resolution and House bill).

Thanks,

Traci

<01-12-2009 LF&A PACKET.pdf>

City of Dover

## MAYOR AND COUNCIL

# DRAFT PROPOSED COUNCIL RESOLUTION NO. 2009-02

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That the Mayor and Council have determined that the Charter of the City of Dover, Article IV - Financial Affairs, Section 47 - General assessment; levy on utility property, should be amended by eliminating the requirement that the assessor be a freeholder; increase the time for appeal from fourteen (14) days to thirty (30) days; and to change the title and makeup of the appeals committee. Therefore, the Mayor and Council respectfully request the General Assembly of the State of Delaware to amend its Charter, which amendment if adopted by the General Assembly would be as follows:

Sec. 47. General assessment; levy on utility property.

The City shall cause to be made a true, just, and impartial valuation and assessment of all real property within the city, locating each parcel of real property by street and number or other description. The valuation and assessment shall be made every three years by an assessor or assessors who shall be elected by the Council at its annual meeting by majority vote thereof. Before entering upon the duties of office, an assessor shall be sworn or affirmed by the Mayor to perform the duties of the assessor's office with fidelity and without favor or partiality.

Whenever Council shall direct, as set forth in the City Ordinance Section 102-1, all real property in the City of Dover shall be assessed by an outside appraiser chosen by Council every three (3) years. This assessment shall be in lieu of the valuation and assessment made by an assessor elected by Council as described hereinabove and in lieu of the assessor's duties described hereinabove.

In addition to the annual assessment, the assessor or assessors shall include supplemental assessments made annually for the purposes of (1) adding property not included in the last assessment or (2) increasing or decreasing the assessment value of property which was included in the last annual assessment.

The annual assessment date for all real property shall be January 1st of each year. The assessment of all property shall be at its true value in money as of the assessment date. True value in money shall be the fair market value.

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The general assessment shall be set down by the assessor or assessors in two (2) or more copies, as the Council shall direct, and shall be delivered to the Council as soon as made. The Council shall, on the first day of April of each year, cause a copy of the general assessment to be posted in two (2) public places in the city for ten (10) days. The assessor shall notify the public of an appeal deadline of thirty (30) days from the date of general assessment posting.

The Council may direct that appeals from any assessment be heard by a committee, known as the Board of Assessment Appeals, of not less than three (3) members appointed by the Council. The Board of Assessment Appeals shall sit at a stated place and time to hear the appeals of all taxpayers dissatisfied with the assessment of their properties, shall collect such information as they consider proper and necessary, and shall report their findings

Notice of the place and time that the Board of Assessment Appeals will sit to hear appeals shall be posted with the general assessment in two (2) public places for a period of ten (10) days. Notice of the posting of the copies of the general assessment and of the place and time of the meetings of the Board of Assessment Appeals shall be published in at least one issue of a newspaper published in the city.

The assessment as revised and adjusted by the Board of Assessment Appeals or Superior Court shall be the basis for the levy and collection of taxes for the city.

The Council shall have the right to levy and collect taxes on gas mains, telephone, telegraph, communications systems, or trolley poles or other erection of like character within the limits of the city, together with the wires thereon strung; and to this end the Council may at any time direct the same to be included in or added to the general assessment.

Nothing contained in this section shall be deemed or held to invalidate or otherwise effect any assessment made prior to the approval of this section or any tax levied thereunder.

BE IT FURTHER RESOLVED That the Mayor and Council have determined that the Charter of the City of Dover, Article IV - Financial Affairs, Section 49A - Assessment, payment, and collection of taxes for new construction, should be amended to allow the assessor to value property once construction permits are issued, rather than waiting for occupancy and; eliminate supplemental billings for new construction valued at less than $25,000. Therefore, the Mayor and Council respectfully request the General Assembly of the State of Delaware to amend its Charter, which amendment if adopted by the General Assembly would be as follows:

Sec. 49A. Assessment, payment, and collection of taxes for new construction.

In the event that the mayor and council of the City of Dover desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so provided that: At the beginning of each quarter of each year, there shall be an increase in the valuation and assessment of all newly constructed real property within the city, locating each parcel

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of real property by street and number or other description. Property shall be deemed to be newly constructed when the city permits occupancy and use (Certificate of Occupancy) or when new construction is being used or occupied for its intended purpose. The said valuation and assessment shall be made by an assessor or assessors who shall be elected by council in accordance with the provisions set forth in Section 47 of this Charter.

The aforementioned assessment shall be during the months of January, April, July, and October of each year. Any new construction with an added value of $25,000 or less shall not be realized until the next annual assessment roll. The property owner may appeal any assessment for new construction in accordance with Section 47 of this Charter.

Nothing in this section contained shall be deemed or held to invalidate or otherwise affect any assessment made prior to the approval of this section or any tax levied thereunder.

All taxes shall be paid to the collector of taxes. Said taxes shall be paid within thirty (30) days of billing and those taxes not paid shall accrue a penalty in the amount of one and one-half (1½) percent per month. For every tax that is not paid as prescribed herein, the tax collector shall have all the powers conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County.

The council shall have the authority to allow errors and delinquents in the assessment.

The provisions of 9 Del. C. § 8705 and 25 Del. C. §§ 2901 through 2905, as they may from time to time be amended, shall be deemed and held to apply to all taxes laid and imposed upon the provisions of this Charter.

ADOPTED: *

KENNETH L. HOGAN
COUNCIL PRESIDENT

CARLETON E. CAREY, SR.
MAYOR

SYNOPSIS

This amendment would codify the recommendations of the IAAO audit and Council actions of 2007 by eliminating the requirement that the assessor be a freeholder; increase the time for appeal from fourteen (14) days to thirty (30) days; change the title and makeup of the appeals committee; allow the assessor to value property once construction permits are issued, rather than waiting for occupancy and; eliminate supplemental billings for new construction valued at less than $25,000.

Actions History

Jan 12, 2009 - Introduced in Legislative, Finance, and Administration Committee

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January 27, 2009

Sponsor:_____

House of Representatives
145th General Assembly
House Bill No.____

AN ACT TO AMEND THE CHARTER OF THE CITY OF DOVER BEING CHAPTER 175, VOLUME 75 OF THE LAWS OF DELAWARE, AS AMENDED, REGARDING TAX ASSESSMENT AND APPEALS

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each House concurring therein):

Section 1. Amend Section 47 of Chapter 175, Volume 75, Laws of Delaware, by deleting Section 47 of Article IV in its entirety and inserting in lieu thereof the following:

Sec. 47. General assessment; levy on utility property.

The City shall cause to be made a true, just, and impartial valuation and assessment of all real property within the city, locating each parcel of real property by street and number or other description. The valuation and assessment shall be made every three years by an assessor or assessors who shall be elected by the Council at its annual meeting by majority vote thereof. Before entering upon the duties of office, an assessor shall be sworn or affirmed by the Mayor to perform the duties of the assessor's office with fidelity and without favor or partiality.

Whenever Council shall direct, as set forth in the City Ordinance Section 102-1, all real property in the City of Dover shall be assessed by an outside appraiser chosen by Council every three (3) years. This assessment shall be in lieu of the valuation and assessment made by an assessor elected by Council as described hereinabove and in lieu of the assessor's duties described hereinabove.

In addition to the annual assessment, the assessor or assessors shall include supplemental assessments made annually for the purposes of (1) adding property not included in the last assessment or (2) increasing or decreasing the assessment value of property which was included in the last annual assessment.

The annual assessment date for all real property shall be January 1st of each year. The assessment of all property shall be at its true value in money as of the assessment date. True value in money shall be the fair market value.

The general assessment shall be set down by the assessor or assessors in two (2) or more copies, as the Council shall direct, and shall be delivered to the Council as soon

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as made. The Council shall, on the first day of April of each year, cause a copy of the general assessment to be posted in two (2) public places in the city for ten (10) days. The assessor shall notify the public of an appeal deadline of thirty (30) days from the date of general assessment posting.

The Council may direct that appeals from any assessment be heard by a committee, known as the Board of Assessment Appeals, of not less than three (3) members appointed by the Council. The Board of Assessment Appeals shall sit at a stated place and time to hear the appeals of all taxpayers dissatisfied with the assessment of their properties, shall collect such information as they consider proper and necessary, and shall report their findings

Notice of the place and time that the Board of Assessment Appeals will sit to hear appeals shall be posted with the general assessment in two (2) public places for a period of ten (10) days. Notice of the posting of the copies of the general assessment and of the place and time of the meetings of the Board of Assessment Appeals shall be published in at least one issue of a newspaper published in the city.

The assessment as revised and adjusted by the Board of Assessment Appeals or Superior Court shall be the basis for the levy and collection of taxes for the city.

The Council shall have the right to levy and collect taxes on gas mains, telephone, telegraph, communications systems, or trolley poles or other erection of like character within the limits of the city, together with the wires thereon strung; and to this end the Council may at any time direct the same to be included in or added to the general assessment.

Nothing contained in this section shall be deemed or held to invalidate or otherwise effect any assessment made prior to the approval of this section or any tax levied thereunder.

Section 2. Amend Section 49A of Chapter 175, Volume 75, Laws of Delaware, by deleting Section 49A of Article IV in its entirety and inserting in lieu thereof the following:

Sec. 49A. Assessment, payment, and collection of taxes for new construction.

In the event that the mayor and council of the City of Dover desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so provided that: At the beginning of each quarter of each year, there shall be an increase in the valuation and assessment of all newly constructed real property within the city, locating each parcel of real property by street and number or other description. Property shall be deemed to be newly constructed when the city permits occupancy and use (Certificate of Occupancy) or when new construction is being used or occupied for its intended purpose. The said valuation and assessment shall be made by an assessor or assessors who shall be elected by council in accordance with the provisions set forth in Section 47 of this Charter.

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The aforementioned assessment shall be during the months of January, April, July, and October of each year. Any new construction with an added value of $25,000 or less shall not be realized until the next annual assessment roll. The property owner may appeal any assessment for new construction in accordance with Section 47 of this Charter.

Nothing in this section contained shall be deemed or held to invalidate or otherwise affect any assessment made prior to the approval of this section or any tax levied thereunder.

All taxes shall be paid to the collector of taxes. Said taxes shall be paid within thirty (30) days of billing and those taxes not paid shall accrue a penalty in the amount of one and one-half (1½) percent per month. For every tax that is not paid as prescribed herein, the tax collector shall have all the powers conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County.

The council shall have the authority to allow errors and delinquents in the assessment.

The provisions of 9 Del. C. § 8705 and 25 Del. C. §§ 2901 through 2905, as they may from time to time be amended, shall be deemed and held to apply to all taxes laid and imposed upon the provisions of this Charter.

Section 3. This Act shall be effective upon its enactment in accordance with law.

SYNOPSIS

This act would eliminate the requirement that the assessor be a freeholder; increase the time for appeal from fourteen (14) days to thirty (30) days; change the title and makeup of the appeals committee; allow the assessor to value property once construction permits are issued, rather than waiting for occupancy and; eliminate supplemental billings for new construction valued at less than $25,000.

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