

NATIONAL ASSEMBLY

FIRST SESSION

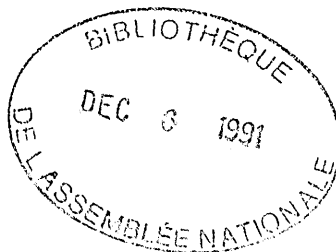
THIRTY-FOURTH LEGISLATURE

Bill 303
(Private)

An Act respecting the city of Saint-Hubert

Introduction

Introduced by
Madam Christiane Pelchat
Member for Vachon



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Bill 303

(Private)

An Act respecting the city of Saint-Hubert

WHEREAS it is in the interest of the city of Saint-Hubert to be granted certain powers;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

CONSOLIDATION BY-LAW

1. The city of Saint-Hubert may, by by-law, provide for the consolidation of the parcels of land forming part of the area described in the schedule in order to constitute, on the basis of the original lots or otherwise, agricultural lands that can be operated in a true and continuous fashion.

2. Any land consolidation by-law shall describe the parcels of land included in the area of consolidation, and indicate the names of their owners.

3. No such by-law may be adopted unless the draft by-law has been sent by the city at least 30 days in advance, by certified or registered mail, to the address appearing on the valuation roll opposite the name of each of the owners of the parcels of land affected by the proposed consolidation.

4. Before being published in accordance with section 362 of the Cities and Towns Act (R.S.Q., chapter C-19), the by-law shall be submitted to the Minister of Agriculture, Fisheries and Food for approval.

The Minister may approve the by-law with or without amendment. If he approves it, he shall give notice to that effect in the *Gazette officielle du Québec*. The notice shall contain a description of the area delimited in the by-law approved by the Minister.

The by-law shall come into force on the date of publication of the Minister's notice or on any later date fixed therein.

5. The by-law may also prohibit the registration of an act or the deposit of a plan at the registry office in respect of an immovable affected by the consolidation.

The city shall give notice of the prohibition to the registrar of the registration division, who shall post it in the registry office.

The duration of the prohibition shall be fixed by the city. It may not exceed 30 days from the date on which the notice is posted.

CHAPTER II

LAND CONSOLIDATION

DIVISION I

POWER TO ACQUIRE PARCELS OF LAND

6. The city may, for the purposes of land consolidation, acquire any parcel of land or immovable real right located within a consolidation area, by agreement or by expropriation.

It may, as consideration, offer its owner any parcel of land or immovable real right it owns in the municipality and that is of a value comparable to that of the right it intends to acquire.

It may also, where mere exchange does not appear to be appropriate, offer in return a sum of money in lieu of, or in addition to, a parcel of land or immovable real right.

7. Any parcel of land or immovable real right acquired by the city pursuant to section 6 shall be valued at the time of acquisition by the city; its value shall be established according to sections 42 and 43 of the Act respecting municipal taxation.

8. The city may acquire or grant any servitude necessary for land consolidation, even on immovables situated outside the area of consolidation.

9. Excepting any contrary provision of this chapter, Title II of the Expropriation Act does not apply to expropriations under the second paragraph of section 6.

DIVISION II

EXCHANGE PROCEDURE

§ 1.—*Notice*

10. The exchange of a parcel of land begins by sending to the owner, by certified or registered mail, a notice of intention to the address appearing on the valuation roll opposite the parcel of land mentioned in the notice.

The notice must include, in particular, the following information:

- (1) the name of the owner;
- (2) the cadastral designation of the parcel of land of the owner and, where the case arises, of the immovable real rights expropriated;
- (3) the cadastral designation of the parcel of land and, where the case arises, of the immovable real rights offered as consideration;
- (4) the period for filing an objection with the city and submitting a request to the Expropriation Division in accordance with this Act.

In the cases provided for in the third paragraph of section 6, the notice must mention the sum offered by the city as consideration.

11. The owner of or any interested person holding rights in the parcel of land referred to in the notice may, within 60 days from the date of delivery of the notice, file with the city an objection to the compensation offered by the city in writing and with reasons.

The owner of a parcel of land in respect of which the city has received no objection within the period mentioned in the first paragraph is deemed to have accepted the proposed exchange and no claim may subsequently be produced concerning that parcel of land.

Once that period has expired, the city shall carry out the exchange with the owners of parcels of land in respect of which no objection has been received.

12. If, within the period mentioned in section 10, the owner of or any interested person holding rights in the parcel of land referred

to in the notice files an objection in writing, with reasons, the city shall examine those reasons and endeavour to come to an agreement with him.

If an agreement is reached, it shall be evidenced in writing and signed by the interested parties.

13. Failing agreement within 60 days from the expiry of the period for filing a notice of objection, the owner or interested person may, by a motion served on the city, request that the Expropriation Division fix the amount of fair compensation resulting from the expropriation.

If, after the lapse of the 60 days, no motion has been made to the Expropriation Division, the city may carry out the exchange on the terms and conditions proposed to the expropriated party. In such case, no claim may subsequently be produced concerning that parcel of land.

§ 2.—Transfer of ownership

14. The ownership of parcels of land referred to in the notice of exchange is transferred by the registration of the notice.

15. Such registration terminates every prohibition imposed under section 5 on the immovable concerned even if the registration is made before the expiry of the period fixed.

In cases provided for in the third paragraph of section 6, transfer is not effected unless the city has, before the registration, deposited at the office of the Superior Court, to the account of the expropriated party, provisional indemnity equal to not less than 70 % of the sum of money offered by the city, and forwarded to the expropriated party a notice of the deposit.

16. The notice of exchange presented for registration shall contain, in particular, the following information in respect of each lot:

- (1) the names of the former and the new owner;
- (2) the description of the corresponding lot acquired or transferred, as the case may be, by the effect of the exchange;
- (3) where applicable, a note of the existence of any real right, servitude or other registration affecting a lot.

This information may be contained in a list attached to the notice of exchange.

17. The city shall send a copy of the notice fixing the period of prohibition imposed under section 5 to the registrar of the registration division and to the Minister of Energy and Resources.

The registrar must post this notice at his office during the period of prohibition and shall not, during that period, accept for registration any deed entailing the alienation of a parcel of land referred to in the notice.

The Minister of Energy and Resources shall not, during the same period, accept the deposit of a plan amending a lot referred to in the notice.

18. Any registration made in contravention of sections 5 and 17 is without effect for the city.

19. The notice of exchange with an owner who has alienated a parcel of land during the period of prohibition retains its effects in respect of any transferee.

After registration of a notice of exchange, one of the parties may register a deed made during the period of prohibition, depositing with it, where applicable, a notice indicating the new designation of the immovable transferred by way of exchange.

20. The city shall send a certified copy or extract of the notice of exchange to every owner concerned by the exchange. This copy or extract shall serve as title of ownership.

DIVISION III

VALUATION OF THE CONSIDERATION

21. Where so requested by a person in accordance with section 13, the Expropriation Division shall hear the parties and fix the compensation due to the expropriated party in accordance with section 6.

22. The Expropriation Division may order, as compensation, the payment of a sum of money or the payment of a balance.

23. Sections 47, 48, 52, 52.1 and 68 of the Expropriation Act, adapted as required, apply to the hearing.

CHAPTER III

EFFECT OF CONSOLIDATION

DIVISION I

RIGHTS AND OBLIGATIONS OF OWNERS

24. From the transfer of ownership resulting from an exchange, the parcels of land involved are subject only to the exercise of rights and actions arising from the authority of the new owner.

The real rights, other than servitudes for public utility, affecting the parcels of land involved in an exchange are exercised of right upon those assigned in the notice of exchange, subject to the formalities set out in section 26.

25. The executory measures taken before transfer of ownership are carried over to the parcels of land assigned in the notice of exchange.

26. Any real right affecting a parcel of land for which a notice of exchange has been deposited for registration must, to remain in effect, be renewed in respect of the new parcel of land assigned, within a period of six months, in the manner prescribed by articles 2172 and 2172a of the Civil Code of Lower Canada.

27. Upon deposit of a notice of exchange, the registrar shall send, by registered or certified mail, to each hypothecary or privileged creditor who has given notice of his address or of his elected domicile, a notice advising him to renew, in respect of the parcel of land assigned to his debtor, the registration of the real right he appears to hold.

Reference must be made to this Act in the index of immovables opposite the entry for the parcel of land formerly affected by a real right and opposite the entry for the parcel of land newly assigned in the notice of exchange.

This reference cancels the entries made against the parcel of land formerly affected by a real right and takes effect upon the renewal made in accordance with section 26, failing this, upon expiry of the period prescribed in the said section.

DIVISION II

DRAWING UP OF PLANS AND ESTABLISHMENT OF PROPERTY TITLES

28. Where the city, within the scope of this Act, becomes the owner of an original lot or sufficient land to be used for agricultural purposes, it shall deposit with the Minister of Energy and Resources a plan cancelling or replacing the numbers of the lots owned by it, in accordance with article 2174a and the first five paragraphs of article 2174b of the Civil Code of Lower Canada.

29. The city may, in general, carry out any cadastral operation within the meaning of paragraph 7 of section 1 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) in respect of any parcel of land included in the territory described in the schedule as though it were the owner of such land.

30. Any operation carried out under sections 28 and 29 must be approved in advance by the Minister of Agriculture, Fisheries and Food.

31. Notwithstanding the second paragraph of article 2168 of the Civil Code of Lower Canada, in any document drafted with a view to acquiring the possession or the ownership of a parcel of land situated in the territory described in the schedule, a designation similar to that appearing in the owner's deed of acquisition is deemed sufficient for the purpose of transferring the right of ownership of the parcel of land to the city.

The same applies where the owner has alienated part of a lot by registered title, if the document mentions that it concerns the remainder of the lot or the part of the lot acquired by that person.

In the case of a part of the lot, reference to the number of that lot and the registration number of the last deed of acquisition entered in the index of immovables shall be sufficient, and it shall not be necessary to designate such immovable in accordance with article 2168 of the Civil Code of Lower Canada.

32. In the event that the owner of a parcel of land is a person having neither residence nor known domicile in Québec, the sworn statement or solemn declaration made by a testamentary executor, assign or mandatary to the effect that he possesses such quality and may dispose of the parcel of land, is sufficient to establish that person's capacity to give the city, or any other party with whom it contracts, good and valid title to the parcels of land or the real rights acquired or granted as a result of a land consolidation operation.

CHAPTER IV

MISCELLANEOUS PROVISIONS

33. The city must notify the Minister of Agriculture, Fisheries and Food of the reconstitution or consolidation of a lot in such a way that it may be used for agricultural purposes. It must also send a copy of the notice to the Fédération régionale de l'union des producteurs agricoles.

34. The city may, with the prior approval of the Minister, lease the lot for agricultural purposes.

35. The city may, by a prior notice of three months addressed to the lessee of a parcel of land of which it has become the owner, resiliate any lease except a lease granted under section 34, with no other compensation than that arising from the works or improvements carried out by the lessee.

36. The city may enter into any agreement with the Minister of Agriculture, Fisheries and Food in respect of the carrying out of this Act or of Divisions V to VII of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14).

37. Any power conferred by this Act on the city may be delegated to the Minister or to the agency designated by the Government.

38. Any agreement made under this chapter must be published by the city clerk in the same manner as a municipal by-law in accordance with section 362 of the Cities and Towns Act.

39. To provide for the expenses resulting from an operation carried out under this Act, the city may order a loan, allocate sums of money from its general fund or impose a special tax to be levied during the year following the date on which it is imposed.

40. The funds derived from an alienation or leasing of parcels of land under this Act must, after payment of administrative and maintenance costs relating thereto, be used to fulfil engagements made by the city under this Act.

Any surplus funds shall be paid into the general fund of the city.

41. An immovable situated in the territory described in the schedule and which the city has acquired or acquires under section 536 of the Cities and Towns Act is deemed to have been or be acquired for the purposes of this Act.

Section 539 of the Cities and Towns Act does not apply to land situated in the territory described in the schedule.

42. The Act respecting duties on transfers of immoveables (R.S.Q., chapter M-39) does not apply to a parcel of land subjected to a land consolidation operation carried out in accordance with this Act.

For the purposes of section 9 of the said Act, the deed must mention that the operation is a land consolidation operation carried out in accordance with this Act.

For the purposes of paragraph *d* of section 17 of the said Act, an original lot reconstituted or consolidated in accordance with this Act is deemed to be an agricultural operation registered in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14).

43. The Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) does not apply to a parcel of land subject to an exchange carried out in accordance with this Act. However, it applies in the case of an acquisition of a lot offered by the city by a non-resident pursuant to section 33.

For the purposes of section 24 of the said Act, the deed must mention that the operation is a land consolidation operation carried out in accordance with this Act.

44. A land consolidation operation does not effect any new transfer within the meaning of section 14 of the Land Transfer Duties Act (R.S.Q., chapter D-17) inasmuch as, at the outset, the duties arising from the deed of acquisition of a parcel of land subject to consolidation were paid or payment thereof was deferred or there was cause for exemption.

Where payment of the duties was deferred, the obligation continues to exist in accordance with the said Act and any stipulation of hypothec, where applicable, is exercised by operation of law on the land assigned by a land consolidation operation, and renewal of the hypothec by the Minister of Revenue under section 26 is not necessary.

Any transfer made under section 33 is subject to the said Act.

45. Any parcel of land situated within the territory described in the schedule and appearing in the plan and book of reference as a public road, street or lane, park or playground, pedestrian passage or other thoroughfare is declared to be the property of the city if no real estate tax has been paid on that parcel of land for three years or more before the coming into force of this Act.

The city may grant valid title to such land.

The cancellation or replacement of the cadastral numbering of a public road, street or lane, park or playground, pedestrian passage or other thoroughfare or the deposit of any plan allocating, other than by subdivision, a new number to such a lot or part of a lot without reference to the purpose assigned to it, confirms the assignment of another purpose.

Any claim not brought by an action before the Superior Court within one year from the coming into force of this Act is extinguished and prescribed.

46. Notwithstanding section 52.1 of the Expropriation Act, the city is at all times free to withdraw wholly or partly from a measure taken for the purpose of consolidation, before payment is made of the required compensation.

47. Notwithstanding the second paragraph of section 40, the city may, for the purpose of exercising the powers conferred on it by this Act, constitute a special fund.

48. Any restrictive clause contained in a deed of sale registered in the Chambly registration division on 4 June 1974 under number 405844 concerning part of lots 126 and 127 of the official cadastre for the parish of Saint-Hubert, Chambly registration division, restricting the use of those immovables, or parts thereof, for commercial purposes, thus constituting a conventional servitude on those immovables or parts thereof, is cancelled in any contract or title whatsoever relating to those sites.

The claim of any person who, were it not for this section, could have legally claimed any real right to all or part of the immovables referred to in this section, is converted into a personal claim against the city for an amount equal to the value of that real right calculated on the date of assent to this Act.

Any such claim is prescribed by the date of the day on which a claim under the real right giving rise to the former claim would be prescribed had it not been converted; the amount of that claim, and the claim itself, shall not constitute a real right or charge on the lots or any one of their parts, without prejudice to any recourse in guarantee by the present owner or his successors against any person held responsible for the payment of such a claim.

Registration of a certified copy of this Act shall be made by deposit.

At that time, the registrar of the Chambly registration division shall enter in the margin of the deed registered in his registration division under number 405844: "Servitude cancelled by the Act registered under number..."

49. This Act comes into force on (*insert here the date of assent to this Act*).

SCHEDULE

A territory situated within the present limits of the municipality of the city of Saint-Hubert, regional county municipality of Champlain, specifically described as follows:

The first part of the territory comprising, in reference to the cadastres for the parish of Saint-Hubert and the parish of Sainte-Famille-de-Boucherville, registration division of Chambly, all the lots or parts of lots, blocks or parts of blocks and their present and future subdivisions, contained within the following limits, to wit:

starting from point "A", situated at the intersection of the dividing line between lots 7 and 8 of the cadastre for the parish of Saint-Hubert and the northwest limit of the municipality of the city of Saint-Hubert; thence, in a general northeasterly, southeasterly and then southwesterly direction, following the irregularities of the said municipal limit, to point "B", situated on the southeast limit of the municipality, to the southwest of the dividing line between lots 229 and 230 of the cadastre for the parish of Sainte-Famille-de-Boucherville, at a distance of fifty metres (50 m) measured along the municipal limit from the dividing line between the said lots; thence westerly along a straight line to point "C", situated one hundred and fifty metres (150 m) to the southwest of the dividing line between the cadastre for the parish of Saint-Hubert and the cadastre for the parish of Boucherville and three hundred and fifty metres (350 m) to the northwest of the southeast limit of the municipality of the city of Saint-Hubert; thence northwesterly along

a line parallel to the dividing line between the said cadastres to its intersection with the east limit of the right of way of Aéroport street, which is point "D"; thence northwesterly along the said limit of the right of way and its extension to the northwest limit of the right of way of Savane road, which is point "E"; thence southwesterly along the said limit of the right of way to the southwest limit of lot 7 of the cadastre for the parish of Saint-Hubert, which is point "F"; thence northwesterly along the southwest line of the said lot to starting point "A".

The second part of the territory comprising, in reference to the cadastre for the parish of Saint-Hubert, registration division of Chambly, all the lots or parts of lots, blocks and parts of blocks and their present and future subdivisions, contained within the following limits, to wit:

starting from point "G", situated at the intersection of the southwest limit of the cadastre for the parish of Saint-Hubert and the northwest limit of the right of way of highway 30; thence northeasterly along the said limit of the right of way to the southwest limit of the right of way of the Canadian National railway, which is point "H"; thence southeasterly along the said limit of the right of way to its intersection with the extension to the southwest of the dividing line between lots 100 and 101, which is point "I"; thence northeasterly along the said extension and then along the dividing line between the said lots for a distance of two hundred metres (200 m), which is point "J"; thence northwesterly along a line parallel to the southwest line of lot 101 to the northwest line of lot 101, which is point "K"; thence northeasterly along the northwest line of the said lot and its extension to the southwest limit of the concession on the northeast side of Chambly road, which is point "L"; thence northwesterly along the said limit to its intersection with the northwest limit of the right of way of highway 30, which is point "M"; thence northeasterly along the said limit of the right of way to the northwest limit of the municipality of the city of Saint-Hubert, which is point "N"; thence northeasterly, southeasterly, and then southwesterly along the limits of the said municipality to the northeast limit of the concession on the southwest side of Chambly road, which is point "O"; thence northwesterly along the said limit to the southeast line of lot 91, which is point "P"; thence southwesterly along the southeast line of the said lot and its extension to the southwest limit of the right of way of the Canadian National Railway, which is point "Q"; thence southeasterly along the said limit of the right of way to the southeast limit of the municipality of the city of Saint-Hubert, which is point "R"; thence in a general southwesterly and then northwesterly direction, along the limits of the said municipality to starting point "G".