

NATIONAL ASSEMBLY

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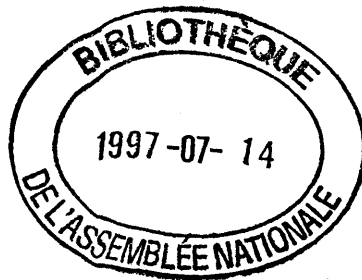
Bill 226

(Private)

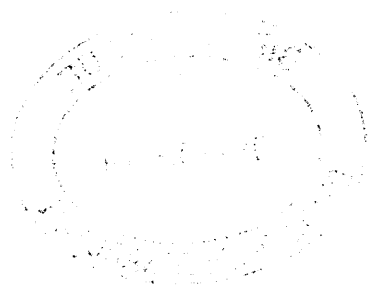
An Act respecting Ville de Varennes

Introduction

Introduced by
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Member for Marguerite-D'Youville



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Bill 226

(Private)

AN ACT RESPECTING VILLE DE VARENNES

WHEREAS it is in the interest of Ville de Varennes that certain powers be granted to it;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Where municipal taxes on an immovable comprised in the sector described in the schedule have not been paid for three consecutive years, the city may be declared the owner of that immovable by the Superior Court sitting in the district in which the immovable is situated.

2. The application is made by a motion.

The motion may concern more than one immovable belonging to different owners.

It may be granted only after publication in a newspaper distributed in the territory of the city of a notice requesting every person who may have rights respecting the immovables to appear in court within 60 days after the publication in order to claim an indemnity equal to the value of his rights, after deducting an amount sufficient to pay all outstanding municipal and school taxes, any accrued interest and the costs pertaining to the motion, including publication costs. Before the deduction, the indemnity claimed may not exceed the actual value of the immovable on 1 January 1980.

Publication of the notice replaces service. The notice shall indicate that it is given under this Act. The description of immovables that are parts of a lot is deemed to be sufficient if it mentions the lot number and the area of the part of the lot concerned as well as the name of its owner.

3. The city becomes the owner of the immovables concerned by publication of a declaratory judgment of ownership at the registry office and no claim may be subsequently made in respect of the immovables. Publication discharges all real rights that may affect the immovables concerned except servitudes of public utility. It confers on the city a title the validity of which may not be contested on any ground.

4. The city may, to consolidate land or to reconstitute the original lots in the sector described in the schedule in respect of which it wishes to promote, ensure or maintain agricultural operations,

- (1) acquire an immovable by agreement or by expropriation;
- (2) hold and manage the immovable;
- (3) carry out the required development, restoration, demolition or clearing work on the immovable;
- (4) alienate or lease the immovable;
- (5) exchange an immovable it owns in the municipality for another immovable it wishes to acquire, if their value is comparable. It may also, where it considers that an unconditional exchange would not be appropriate, offer as consideration an amount of money in lieu of or in addition to an immovable.

5. This Act shall be published at the registry office of the registration division in which the territory described in the schedule is situated.

A list of the immovables in the territory shall be appended to the Act. The list, which must be approved by the clerk of the city, shall indicate that it has been prepared under this section.

6. Acquisitions by agreement, exchanges and alienations provided for in section 4 do not constitute an alienation within the meaning assigned to that word in the definition in section 1 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) if, in the case of an alienation, the immovable is transferred to the owner of an agricultural operation registered pursuant to 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).

7. An offer of exchange is made by service of a notice to that effect on the owner. Section 40.1 of the Expropriation Act (R.S.Q., chapter E-24) applies to the service of the notice.

The notice must also be published in the *Gazette officielle du Québec* at least 10 days before being sent to the owner.

The notice must indicate that it is given under this Act and contain, in particular, the following information:

- (1) the description of the immovable that the city wishes to acquire;
- (2) the name of the owner of the immovable;
- (3) the description of the immovable offered as consideration;
- (4) the period for filing an objection with the city.

In the case provided for in paragraph 5 of section 4, the notice must mention the sum of money offered by the city as consideration.

8. The owner of the immovable that the city wishes to acquire may, within 60 days of the date on which the notice was served on him, file with the city an objection to the consideration offered, in writing and with reasons. Holders of real rights in the immovable and, in particular, holders of claims secured by a prior claim or hypothec on the immovable have the same right within that time.

In addition, every owner, lessee or occupant of an immovable upon which there is a servitude other than a servitude of public utility may, within the same time, file an objection with the city, in writing and with reasons, for the purpose of claiming an indemnity.

No objection may be filed after the expiry of that time.

At the expiry of the time provided for in the first paragraph, the city shall carry out the exchange with the owners of the immovables if no objection to the consideration offered has been filed.

9. Where the owner of the immovable that the city wishes to acquire, or the holder of a real right in the immovable other than a servitude, files, within the time mentioned in section 8, an objection in writing and with reasons, the city may enter into an agreement with the owner or holder in relation to the exchange.

In addition, if the owner, lessee or occupant of an immovable that the city wishes to acquire and upon which there is a servitude other than a servitude of public utility files an objection in writing and with reasons, the city may enter into an agreement with the person in relation to the indemnity.

Where an agreement is reached, it shall be evidenced in writing. After payment or deposit in the Superior Court of the sum of money agreed upon, if any, the city shall carry out the exchange.

10. Failing agreement within 30 days from the expiry of the time for filing a notice of objection, the owner of the immovable that the city wishes to acquire, or the holder of a real right in the immovable other than a servitude, may, by a motion served on the city, request that the Expropriation Division of the Court of Québec fix the amount of fair consideration resulting from the exchange.

Within the same time, the owner, lessee or occupant of an immovable that the city wishes to acquire and upon which there is a servitude other than a servitude of public utility may request that the Expropriation Division of the Court of Québec fix the amount of the indemnity resulting from the extinction of the servitude.

Where, at the expiry of the time prescribed in the first paragraph, no request has been filed with the Expropriation Division in relation to the consideration, the city may carry out the exchange as proposed.

11. Where a person avails himself of section 10, the Expropriation Division shall hear the parties and fix the consideration or the indemnity owing to that person.

The consideration fixed to give effect to a request filed under the first paragraph of section 10 may consist, in whole or in part, in an immovable.

The indemnity fixed to give effect to a request filed under the second paragraph of section 10 may consist only in a sum of money.

Following the decision of the Expropriation Division and, as the case may be, the payment of the sum ordered or of its deposit in the Superior Court, the city shall carry out the exchange.

12. The ownership of an immovable designated in a notice under section 7 is transferred by the publication of a notice of the transfer at the registry office.

The real rights in the immovable acquired by the city other than the servitudes shall be transferred to the immovable transferred as consideration.

Servitudes of public utility shall continue to be a charge on the immovable acquired by the city, but the other servitudes are extinguished.

13. The city shall send to the owner with whom an exchange has been made a certified true copy of, or extract from, the notice referred to in section 12 concerning him. The document must mention the number under which the notice has been published at the registry office and is valid as title of ownership.

14. Sections 40.1, 47, 48, 52 and 58 of the Expropriation Act, adapted as required, apply to the proceedings.

15. From the transfer of the right of ownership resulting from an exchange, the immovables affected by the exchange are subject only to the rights and actions which the new owner may exercise.

16. Publication of the real rights that affected the immovable acquired by the city and that may be transferred to the immovable transferred as consideration must be renewed on the immovable within six months of the transfer of ownership.

For the purposes of determining the order of prior claims and hypothecs on the immovable transferred as consideration, the order in which the renewal has been effected shall not be taken into account.

17. Upon the filing of a notice under section 12, the registrar shall send, by registered or certified mail, to the holders of real rights, other than servitudes, in the immovable acquired by the city, including claims secured by a prior

claim or hypothec on the immovable, a notice advising them to renew on the immovable transferred as consideration by the city the publication of the real right they appear to hold.

Mention of this Act shall be made in the land register opposite the immovable formerly affected by a real right and the immovable transferred as consideration.

In addition, the registrar shall at the same time cancel the entries of real rights other than servitudes of public utility on the immovable acquired by the city, including the entries of prior claim or hypothec on the immovable. The cancellation of the entries relating to real rights other than servitudes does not prevent the application of section 16.

18. Notwithstanding any inconsistent provision, the description of an immovable comprised in the sector described in the schedule is sufficient if it reproduces the description contained in the title of the owner published at the registry office.

19. The person to whom an immovable is transferred by the city as consideration for an immovable acquired by it under this Act is exempt from the payment of the transfer duties under the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1).

20. The Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) does not apply to an immovable that is exchanged in accordance with this Act. However, it applies in the case of an acquisition by a non-resident of a lot offered by the city under section 28.

21. The Land Transfer Duties Act (R.S.Q., chapter D-17), sections 26 and 27 and Title III of Part II of the Taxation Act (R.S.Q., chapter I-3) do not apply to immovables transferred by the city under this Act.

22. This Act does not apply to any immovable real right which may be held by the Minister of Revenue in respect of an immovable subject to consolidation, nor shall it operate to limit or prevent the total or partial application of the provisions of a fiscal law within the meaning of section 1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

23. The city is at all times free to withdraw wholly or partly from a measure taken for the purpose of exchanging an immovable under this Act, before publication of the notice referred to in section 12.

No damages which may be granted following such withdrawal may exceed the value of the immovable entered on the assessment roll in force on the date on which the notice under section 7 is sent, multiplied by the factor established for that roll pursuant to the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

24. The Cities and Towns Act (R.S.Q., chapter C-19) is amended, for the city, by inserting, after section 486, the following sections :

“486.1. In addition to any real estate tax that it may impose and levy on vacant land, whether or not it is serviced, the council may impose and levy annually on land situated in the sector described in the schedule a surtax that may be equal to the total of the real estate taxes that may be imposed and levied on such land for the fiscal year concerned. The council may by by-law order that the amount of the surtax for such land shall not be less than a minimum amount it fixes in the by-law and that may not exceed \$200.

The by-law may provide for categories of land subject to the surtax and impose a surtax whose rate may vary according to the category.

Such surtax ranks, in every respect, as a general real estate tax of the city. It applies to the land entered on the assessment roll in force as part of the categories fixed in the by-law.

“486.2. The following land is not subject to the surtax provided for in section 486.1 :

(1) land on which there is a building whose real estate value exceeds 25% of the real estate value of the land according to the assessment roll in force ;

(2) land owned by a railway undertaking and on which there is a railway track ;

(3) land used for overhead electric power lines ;

(4) land forming part of an agricultural operation registered in accordance with a regulation made pursuant to section 36.15 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (chapter M-14) ;

(5) land that may be used for purposes other than agriculture pursuant to an authorization of the Commission de la protection du territoire agricole du Québec.

“486.3. The debtor of the surtax is entitled to a refund where the unit of assessment subject to the surtax is land more than 50% of the area of which is used to cultivate soil and plants.

The city may, in the by-law, determine the formalities applicable to surtax refunds.

“486.4. The revenues from the surtax imposed under section 486.1 shall be paid into a special fund.

The sums from the fund shall be used solely to promote consolidation of land situated in agricultural zones and reuse of the land for agricultural

purposes. In particular, the sums may be used for the purpose of acquiring land by agreement or by expropriation and of exchanging or alienating land.”

25. The first two paragraphs of section 57 and paragraph 13 of section 174 of the Act respecting municipal taxation, adapted as required, apply to the surtax that the council, under section 486.1 of the Cities and Towns Act, as amended for the city, may impose and levy on vacant land, whether or not it is serviced, in an agricultural zone. The roll must indicate which category, among the categories provided for in the by-law adopted by the council for that purpose, a unit of assessment subject to the surtax referred to in this section is part of.

26. Where the city, under this Act, becomes the owner of immovables sufficient to be used for genuine and sustained agricultural purposes, it shall submit to the Minister of Natural Resources a plan entailing the striking out or replacement of the numbers of the lots it owns in accordance with article 3043 of the Civil Code of Québec.

27. Every operation carried out under section 26 must be authorized by the Minister of Agriculture, Fisheries and Food.

28. The city shall, within two years following the authorization provided for in section 27, offer for sale, at its actual value, the lot concerned by the cadastral amendment to enable it to be used for agricultural purposes, and shall so advise the Minister of Agriculture, Fisheries and Food and the Fédération régionale de l'Union des producteurs agricoles.

If the city fails to find a purchaser for a lot at its actual value within the required time, it shall so advise the Minister of Agriculture, Fisheries and Food who may grant a new time limit for the selling of the lot or, at the request of the council, authorize the city to retain it permanently.

The city may, in respect of an immovable it is authorized to retain, carry out thereon development, restoration, demolition or clearing work, operate it or lease it.

29. Section 8 of the Act to amend the charter of the city of Varennes (1978, chapter 116) is repealed.

This section does not operate to cancel the recourse under the seventh and eighth paragraphs of section 8 of the said Act for personal claims which replace immovable real rights extinguished under that section nor to reduce the prescription period applicable to that recourse.

In addition, this section does not affect contracts in force on 12 September 1995 under which the city has leased the rights it has in respect of the immovables comprised in the sector described in the schedule. The leases remain in force until the date on which it is provided they will cease to have effect.

30. All by-laws or resolutions adopted by the city under section 8 of the Act to amend the charter of the city of Varennes remain in force until the date on which it is provided they will cease to have effect, until their object is achieved or until they are replaced or repealed.

31. This Act does not affect cases pending or decisions or judgments rendered on 12 September 1995.

32. The city is declared to be the absolute owner, from (*insert here the date of coming into force of this Act*), of the immovables to which the judgments rendered on 13 February 1990 in the records of the Superior Court of the district of Richelieu bearing the following numbers apply :

765-05-000032-901	765-05-000046-901
765-05-000033-909	765-05-000047-909
765-05-000034-907	765-05-000048-907
765-05-000035-904	765-05-000049-905
765-05-000036-902	765-05-000050-903
765-05-000037-900	765-05-000051-901
765-05-000038-908	765-05-000052-909
765-05-000039-906	765-05-000053-907
765-05-000040-904	765-05-000054-905
765-05-000041-902	765-05-000055-902
765-05-000042-900	765-05-000056-900
765-05-000043-908	765-05-000057-908
765-05-000044-906	765-05-000058-906
765-05-000045-903	765-05-000059-904
765-05-000060-902	765-05-000075-900
765-05-000061-900	765-05-000076-908
765-05-000062-908	765-05-000077-906
765-05-000063-906	765-05-000078-904
765-05-000064-904	765-05-000079-902
765-05-000065-901	765-05-000080-900
765-05-000066-909	765-05-000081-908
765-05-000067-907	765-05-000082-906
765-05-000068-905	765-05-000083-904
765-05-000069-903	765-05-000084-902
765-05-000070-901	765-05-000085-909
765-05-000071-909	765-05-000086-907
765-05-000072-907	765-05-000087-905
765-05-000073-905	765-05-000088-903
765-05-000074-903	765-05-000089-901

A second list shall be added to the list of the immovables situated in the territory described in the schedule prepared under section 5, which must also be approved by the clerk of the city, indicating the immovables to which the judgments mentioned in the first paragraph apply. The list shall indicate that it has been prepared under this section.

Publication of this section at the registry office of the registration division concerned has the same effect as the registration or publication of a judgment respecting the putting into definitive possession rendered under section 8 of the Act to amend the charter of the city of Varennes.

33. The title obtained by Ville de Varennes under this Act in respect of the immovables situated in the territory described in the schedule and the title obtained under the Act to amend the charter of the city of Varennes may not be contested.

34. Article 3042 of the Civil Code of Québec does not apply to the sector described in the schedule.

35. This Act comes into force on (*insert here the date of assent to this Act*), except sections 29 to 31 which come into force three months after that date.

SCHEDULE

PROVINCE OF QUÉBEC OFFICIAL CADASTRE OF THE PARISH OF VARENNES REGISTRATION DIVISION OF VERCHÈRES VILLE DE VARENNES

A territory forming part of the cadastre of the parish of Varennes, comprising the lots or parts of lots and their subdivisions and redivisions, the whole enclosed within the perimeter hereinafter described, to wit: starting from the intersection of the northeast limit of Ville de Varennes with the southeast limit of the Autoroute de l'Acier (No. 30); southeasterly, along the northeast limit of Ville de Varennes to the southeast corner of lot 344; southwesterly, on the southeast limit of Ville de Varennes to the southwest corner of lot 403; southeasterly, again along the northeast limit of Ville de Varennes, being the northeast limit of lot 404 to the southeast corner of the said lot 404; southwesterly, again along the southeast limit of Ville de Varennes, being the southeast limit of lots 404 to 418 inclusively, to the intersection with the dividing line between lots 418 and 419; northwesterly, along the dividing line between lots 418 and 419, to the southeast limit of the front road of the Concession des Trente (Ninth Concession) known under the name of Chemin du Cordon; southwesterly, along the southeast limit of the said Chemin du Cordon to the intersection with the extension of the dividing line between lots 314 and 315; northwesterly, along the dividing line between lots 314 and 315, then along the southwest limit of lot 315 and the southwest limit of lot 246, along the Montée de Picardie, to the southeast limit of the road known under the name of Picardie Range Road; northeasterly, along the southeast limit of the said Picardie Range Road to the intersection with the extension of the dividing line between lots 165 and 166; northwesterly, along the extension of the dividing line between lots 165 and 166, then along the said dividing line between lots 165 and 166 to the Notre-Dame brook; northeasterly, along the Notre-Dame brook to the northeast limit of the Montée de la Baronnie; southeasterly, along the northeast limit of the Montée de la Baronnie to the intersection with the southeast limit of the Autoroute de l'Acier (No. 30); northeasterly, along the southeast limit of the Autoroute de l'Acier (No. 30) to the starting point.