

1991, chapter 87

## AN ACT RESPECTING THE CITY OF SAINT-HUBERT

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### **Bill 303**

Introduced by Madam Christiane Pelchat, Member for Vachon

Introduced 19 November 1991

Passage in principle 18 December 1991

Passage 18 December 1991

**Assented to 18 December 1991**

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**Coming into force: 18 December 1991, except section 48, which will come into force on the date fixed by the Government**

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**Act amended:** None





## CHAPTER 87

### An Act respecting the city of Saint-Hubert

*[Assented to 18 December 1991]*

Preamble 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

Consolidation **1.** The city of Saint-Hubert may, by by-law, provide for the consolidation of the immovables 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.

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

Copy of draft by-law **3.** No such by-law may be adopted unless a copy of the draft by-law has been sent by the city at least 30 days in advance, by certified or registered mail, to each of the owners of the immovables affected by the proposed consolidation.

Publication **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.

**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.

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

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

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

**Duration** The duration of the prohibition shall be fixed by the city. It may not exceed 60 days from the date on which the notice is posted.

## CHAPTER II

### LAND CONSOLIDATION

#### DIVISION I

##### POWER TO ACQUIRE PARCELS OF LAND

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

**Consideration** It may, as consideration, offer its owner any immovable which it owns in the municipality and that is of a value comparable to that of the immovable it intends to acquire.

**Consideration** It may also, where mere exchange does not appear to be appropriate, offer as consideration a sum of money in lieu of, or in addition to, an immovable.

**Valuation** **7.** An immovable subject to consolidation shall be valued on the date a notice is sent under section 10.

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

**Applicable provisions** **9.** Excepting any contrary provision of this chapter, Title II of the Expropriation Act (R.S.Q., chapter E-24) does not apply to

expropriations for which the consideration consists in whole or in part of an immovable.

## DIVISION II

### EXCHANGE PROCEDURE

#### § 1.—*Notice*

**Notice**           **10.** The exchange begins by serving a notice to that effect on the owner. Section 40.1 of the Expropriation Act applies to the service of such a notice.

**Publication**       The notice must also be published in a newspaper distributed in the territory of the city and in the *Gazette officielle du Québec*, at least ten days before being sent to the owner.

**Notice**           The notice must contain, in particular, the following information:

(1) the name of the owner;

(2) the cadastral designation of the immovable expropriated;

(3) the cadastral designation of the immovable offered as consideration;

(4) the period for filing an objection with the city and the period for submitting a request to the Expropriation Division in accordance with this Act.

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

**Objection**       **11.** The owner of or any interested person holding rights in the immovable referred to in the notice may, within 90 days from the date of service of the notice on the owner, file with the city an objection to the consideration offered by the city, in writing and with reasons.

**Presumption**     The owner of an immovable 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 immovable.

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

**Agreement**      **12.** If, within the period mentioned in section 10, the owner of or any interested person holding rights in the immovable referred to in the notice files an objection in writing, with reasons, the city shall endeavour to come to an agreement with him.

**Agreement**      If an agreement is reached, it shall be evidenced in writing and signed by the city and by any person having availed himself of the first paragraph.

**Amount of fair consideration**      **13.** Failing agreement within 60 days from the expiry of the period for filing a notice of objection, the owner or interested person may, within 15 days from the expiry of those 60 days, 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 expropriation.

**Terms and conditions**      If, after the expiry of the 15 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 immovable.

### § 2.—*Transfer of ownership*

**Transfer**      **14.** The ownership of the immovables designated in a notice under section 10 is transferred by the registration of the notice.

**Presumption**      Where, in the year following the date on which the city acquires the right to carry out the exchange pursuant to the second paragraph of section 13, neither the notice referred to in the first paragraph nor any other instrument transferring ownership of the immovable concerned to the city has been registered, the city is deemed to have withdrawn.

**Presumption**      The city is also deemed to have withdrawn if, within the year following the date on which a decision rendered pursuant to sections 20 and 21 becomes *res judicata*, neither the notice referred to in the first paragraph nor any other instrument transferring ownership of the immovable concerned to the city has been registered.

**Provisions applicable**      The fifth paragraph of article 2131 of the Civil Code of Lower Canada does not apply to the notice referred to in the first paragraph.

**Termination of prohibition**      **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.

Require-  
ments

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. Such sum may not be withdrawn or distributed while the city retains its option to withdraw.

Copy of  
notice

**16.** 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.

Notice

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 an immovable referred to in the notice.

Prohibition

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.

Registra-  
tion

**17.** Any registration made in contravention of sections 5 and 16 is without effect for the city.

Notice

**18.** A notice under section 10 which relates to an exchange with an owner who has alienated a parcel of land during the period of prohibition retains its effects in respect of any transferee.

Registra-  
tion

After registration of a notice under section 10, 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.

Copy or  
extract of  
notice

**19.** The city shall send a certified copy or extract of the notice under section 10 to every owner concerned by the exchange. This copy or extract shall serve as title of ownership.

### DIVISION III

#### VALUATION OF THE CONSIDERATION

Hearing

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

Consideration **21.** The Expropriation Division may order, as consideration, the payment of a sum of money or the payment of a balance.

Provisions applicable **22.** Sections 40.1, 47, 48, 52, 52.1, 58 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

Rights and actions **23.** From the transfer of ownership resulting from an exchange, the immovables involved are subject only to the exercise of rights and actions arising from the authority of the new owner.

Real rights The real rights, other than servitudes for public utility, affecting the immovables involved in an exchange are exercised of right upon those offered as consideration in the notice under section 10, subject to the formalities prescribed in section 26.

Deposit **24.** Any sum of money paid by the city following service of a notice under section 10 in respect of an immovable must be deposited at the office of the Superior Court.

Distribution Once ownership of the immovable has been transferred, the sum shall be distributed by the prothonotary in accordance with the rules of the Code of Civil Procedure (R.S.Q., chapter C-25) relating to the seizure of immovables in execution.

Executory measures **25.** The executory measures taken before transfer of ownership are carried over to the immovables offered as consideration in the notice under section 10.

Renewal **26.** Any real right affecting an immovable for which a notice under section 10 has been deposited for registration must, to remain in effect, be renewed in respect of the immovable offered as consideration within a period of six months, in the manner prescribed by articles 2172 and 2172a of the Civil Code of Lower Canada.

Ranking of privileges or hypothec This section shall not affect the ranking of any privileges or hypothecs encumbering the immovable offered as consideration immediately before registration of the notice pursuant to section 14.

- 27.** Notwithstanding article 1598 of the Civil Code of Lower Canada, a person who is evicted from an immovable transferred to him by the city as consideration may claim only damages.
- 28.** Upon deposit of a notice under section 10, 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 immovable offered as consideration in the notice under section 10, the registration of the real right he appears to hold.
- Reference      Reference must be made to this Act in the index of immovables opposite the entry for the immovable formerly affected by a real right and opposite the entry for the immovable offered as consideration in the notice under section 10.
- Reference      This reference cancels the entries made against the immovable formerly affected by a real right and takes effect upon the renewal made in accordance with section 26 or, failing this, upon expiry of the period prescribed in the said section.

## DIVISION II

## DRAWING UP OF PLANS AND ESTABLISHMENT OF PROPERTY TITLES

- 29.** Where the city, within the scope of this Act, becomes the owner of an original lot or of a number of immovables sufficient for use 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 2174*a* and the first five paragraphs of article 2174*b* of the Civil Code of Lower Canada.
- 30.** Any operation carried out under section 29 must be approved in advance by the Minister of Agriculture, Fisheries and Food.
- 31.** Notwithstanding article 2168 of the Civil Code of Lower Canada, in any document drafted with a view to acquiring the ownership of an immovable 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 immovable 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.



Require-  
ments

In the case of a part of a 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.

## CHAPTER IV

### MISCELLANEOUS PROVISIONS

Binding  
notice

**32.** A notice under section 10 shall bind any person who acquires the expropriated immovable before the registration provided for in section 14.

Provisions  
applicable

However, if the owner on whom the notice under section 10 has been served transfers the immovable concerned after having applied to the Expropriation Division, section 43 of the Expropriation Act shall apply.

Notification

**33.** The city must notify the Minister of Agriculture, Fisheries and Food of the 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.

Sale

The city must put the lot up for sale, at its true value, within the year following its consolidation, in order that it be operated for agricultural purposes.

Failure to  
find pur-  
chaser

**34.** Where the city fails to find a purchaser for a lot at its true value it may, with the prior approval of the Minister of Agriculture, Fisheries and Food, lease it for agricultural purposes, retain it or use it for any purpose authorized by the Commission de protection du territoire agricole du Québec provided it is a municipal purpose.

Condition

**35.** A deed of sale or lease concluded pursuant to section 33 or 34 may include any condition necessary to ensure operation of the immovable concerned for agricultural purposes.

Resiliation

**36.** The city may, by a prior notice of six months addressed to the lessee or occupant in good faith of an immovable 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.

Agreement

**37.** The city may enter into any agreement with the Minister of Agriculture, Fisheries and Food in respect of the carrying out of this Act.

- Publication**      **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.
- Expenses**      **39.** To provide for the expenses resulting from an operation carried out under this Act, the city may, in particular, impose any special tax which may be imposed in accordance with section 487 of the Cities and Towns Act.
- Funds**      **40.** The funds derived from an alienation or leasing of immovables 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.
- Surplus funds**      Any surplus funds may be reserved for purposes provided for in this Act or paid into the general fund of the city.
- Presumption**      **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.
- Applicable provisions**      Section 539 of the Cities and Towns Act does not apply to an immovable situated in the territory described in the schedule.
- Exemption**      **42.** The person to whom an immovable is transferred by the city as consideration for an immovable acquired by it is exempt from paying transfer duties under the Act to authorize municipalities to collect duties on transfers of immoveables (R.S.Q., chapter M-39).
- Notice**      For the purposes of section 9 of the said Act, the notice under section 10 must mention that the operation is a land consolidation operation carried out in accordance with this Act.
- Provisions applicable**      **43.** The Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) does not apply to an immovable 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.
- Notice**      For the purposes of section 24 of the said Act, the notice under section 10 must mention that the operation is a land consolidation operation carried out in accordance with this Act.
- Presumption**      **44.** A notice under section 10 is deemed to be an expropriation notice for the purposes of section 16 of the Land Transfer Duties Act (R.S.Q., chapter D-17).

**Applicability**      **45.** 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 have the effect of limiting or preventing 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).

**Property of the city**      **46.** Any immovable 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 immovable for three years or more before the coming into force of this Act.

**Title**      The city may grant valid title to such an immovable.

**Cadastral numbering**      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.

**Publication**      The clerk of the city shall cause to be published once in the *Gazette officielle du Québec* and once in a newspaper distributed in the territory of the city, a notice containing

(1) the text of this section;

(2) a summary description, by way of a sketch, of the thoroughfares mentioned in the first paragraph.

**Prescription**      Any claim not brought by an action before the Superior Court within one year from the last publication of the notice referred to in the fourth paragraph is extinguished and prescribed.

**Withdrawal**      **47.** Notwithstanding the first paragraph of 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 registration of the notice pursuant to section 14.

**Damages**      No damages which may be granted pursuant to the second paragraph of the said section 52.1 may exceed the value of the immovable entered in the valuation roll in effect on the date on which the notice under section 10 is sent, multiplied by the factor established for that roll pursuant to the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

Restrictive  
clause

**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, is cancelled in any contract or title whatsoever relating to those sites.

Personal  
claim

The claim of any person who, were it not for this section, could have legally claimed any real right in 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.

Prescription

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 in or charge on the lots or any one of their parts, without prejudice to any recourse in warranty by the present owner or his successors against any person held responsible for the payment of such a claim.

Registration

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

Entry

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: "See the Act registered under number ...".

Coming into  
force

**49.** This Act comes into force on 18 December 1991, except section 48, which will come into force on the date fixed by the Government.

## 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”.