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Bill 226

(Private)

An Act respecting Ville de Varennes

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(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, namely all resolutive clauses or published rights of cancellation, except servitudes of public utility. On presentation of an additional copy of the declaratory judgment, the registrar shall cancel all rights so discharged.

The publication 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 its territory 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. Acquisitions by agreement and exchanges provided for in section 4 do not constitute an alienation within the meaning assigned to that word in section 1 of the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., chapter P-41.1).

6. An offer of exchange is made by service on the owner of a notice to that effect together with the text of sections 4 to 22 and 32 of this Act. Section 40.1 of the Expropriation Act (R.S.Q., chapter E-24) applies to the service of the notice. The notice shall then be published in the registry office.

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

7. 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.

8. 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 7, 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.

9. 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, within 15 days after the expiry of the 30 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 exchange.

Within the same time of 15 days, 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 15 days, no request has been filed with the Expropriation Division in relation to the consideration, the city may carry out the exchange as proposed.

10. Where a person avails himself of section 9, 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 9 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 9 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.

11. The ownership of an immovable designated in a notice under section 6 is transferred by the publication of a notice of the transfer at the registry office. The notice shall make reference to the notice served pursuant to section 6 by indicating its publication number 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.

12. 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 11 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.

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

14. 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.

15. Publication of the real rights that affected the immovable acquired by the city and that may be transferred to the immovable transferred as consideration pursuant to section 11 must be carried over in respect of the immovable by a notice published at the registry office within six months of the transfer of ownership.

At the expiry of the six months, any rights that have been registered but not carried over are extinguished and the registrar must refuse any requisition presented to have the registration declared.

The prior claims and hypothecs that have been registered and carried over in respect of the immovable transferred as consideration retain the initial order they had on the immovable acquired by the city.

16. Upon publication of a notice referred to in section 11, the clerk of the city shall send, by registered or certified mail, to the holders of real rights in the immovable acquired by the city other than servitudes, including claims secured by prior claim or hypothec on the immovable, a notice advising them to carry over, within six months after the transfer of ownership, the registration of the real right in respect of which they appear as holders in the immovable transferred as consideration by the city.

17. Upon publication of a notice referred to in section 11, the registrar shall cancel the registration of real rights other than servitudes of public utility on the immovable acquired by the city, including the registration of prior claims, hypothecs, resolutive clauses or rights of cancellation and servitudes other than servitudes of public utility on the immovable. Cancellation of the registration is effected by the registrar on presentation of an additional copy of the notice referred to in section 11 by the clerk of the city.

Cancellation of the registration relating to real rights other than servitudes shall not preclude the application of section 15.

18. The Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) does not apply to an immovable transferred by the city as consideration for an immovable acquired by the city under this Act.

19. 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 27.

20. Sections 26, 27 and 1094 of the Taxation Act (R.S.Q., chapter I-3) do not apply to immovables exchanged by the city under paragraph 5 of section 4.

21. Subject to section 20, 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).

22. The city may 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 11.

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 6 is sent, multiplied by the factor established for that roll pursuant to the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

23. 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 to the Act respecting Ville de Varennes (1997, chapter 106) 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 (R.S.Q., chapter M-14) and operated by the person entered on the real estate assessment roll in force in the territory of the city, unless the land has already been consolidated or reconstituted under this Act ;

(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 the sector described in the schedule to the Act respecting Ville de Varennes (1997, chapter 106) 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.”

24. 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 the sector described in the schedule. 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.

25. 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.

26. Every operation carried out under section 25 must be authorized by the Minister of Agriculture, Fisheries and Food.

27. The city shall, within two years following the authorization provided for in section 26, 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. The city shall first offer the lot to the owners of the land contiguous to it that forms 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.

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.

28. 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, notwithstanding section 14, this section does not affect contracts in force on 19 December 1997 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.

29. 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.

30. This Act shall not affect cases pending on 8 December 1997.

31. The transfer to the city of ownership 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

is effected by publication at the registry office of a notice to that effect containing the text of this section.

Publication of the notice has the same effect as 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.

32. 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.

33. This Act comes into force on 19 December 1997, except sections 28 and 29 which come into force three months after that date.

SCHEDULE

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 the territory of Ville de Varennes with the southeast limit of the Autoroute de l'Acier (No. 30); southeasterly, along the northeast limit of the territory of Ville de Varennes to the southeast corner of lot 344; southwesterly, on the southeast limit of the territory of Ville de Varennes to the southwest corner of lot 403; southeasterly, again along the northeast limit of the territory 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 the territory 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.