

Gouvernement du Québec

O.C. 1175-99, 13 October 1999

An Act respecting the Ministère des Ressources naturelles
(R.S.Q., c. M-25.2)

Program for the delegation of the management of intramunicipal lands in the public domain to regional county municipalities in the administrative region of Bas-Saint-Laurent

WHEREAS the Government and the Conseil régional de concertation et de développement du Bas-Saint-Laurent, as part of the government policy on regional development, have agreed on a proposed specific agreement on intramunicipal territory in the public domain ;

WHEREAS the parties involved discussed the delegation of powers and responsibilities to the regional county municipalities in the region with respect to intramunicipal lands in the public domain ;

WHEREAS the Government made a proposal to the Conseil régional de concertation et de développement du Bas-Saint-Laurent with a view to signing the specific agreement ;

WHEREAS on 2 June 1999, the Conseil régional approved, by resolution, the content of the specific agreement proposed by the Government which defines the measures, provisions and commitments agreed to by the parties ;

WHEREAS one of the principal measures contemplated in the proposed specific agreement, which should further the socio-economic development of the region's communities, is the delegation of the management of intramunicipal lands in the public domain to the regional county municipalities of the Bas-Saint-Laurent region ;

WHEREAS under section 17.13 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., c. M-25.2), the Minister may, with the approval of the Government, prepare programs for the development of lands in the public domain that are under his authority in order to foster regional development ;

WHEREAS under section 17.14 of that Act, amended by section 126 of Chapter 93 of the Statutes of 1997, the Minister of Natural Resources may, for the purposes of

such programs, entrust the management of lands in the public domain and the movables and immovables located on them to a legal person designated by the Minister, which may then carry out the Minister's powers and responsibilities under the Act respecting the lands in the public domain (R.S.Q., c. T-8.1, amended by Chapter 43 of the Statutes of 1997 and Chapter 24 of the Statutes of 1998), to the extent and according to the terms and conditions set out in the program ;

WHEREAS that section allows the Minister to determine which powers provided for in section 71 of the Act respecting the lands in the public domain may be exercised by the legal person by means of by-laws, to the extent and according to the terms and conditions set out in the program ;

WHEREAS under sections 14.11 to 14.12.2 of the Municipal Code of Québec (R.S.Q., c. C-27.1, amended by sections 68 and 69 of Chapter 93 of the Statutes of 1997 and section 29 of Chapter 31 of the Statutes of 1998), every municipality may participate in the programs prepared by the Minister of Natural Resources and has the necessary powers to meet the commitments and assume the responsibilities under the programs with respect to any designated land in the public domain ;

WHEREAS it is expedient to approve the program which authorizes the Minister of Natural Resources to delegate to the regional county municipalities in the administrative region of Bas-Saint-Laurent the management of intramunicipal lands in the public domain identified in the territorial management agreements to be signed under the program ;

WHEREAS it is expedient to entrust the management of the program to the Minister of Natural Resources ;

WHEREAS the program planning is administered by the Minister in conjunction with the other departments and government bodies concerned ;

IT IS ORDERED, therefore, on the recommendation of the Minister of Natural Resources :

THAT the Program for the delegation of the management of intramunicipal lands in the public domain to regional county municipalities in the administrative region of Bas-Saint-Laurent, attached to this Order in Council, be approved.

MICHEL NOËL DE TILLY,
Clerk of the Conseil exécutif

PROGRAM FOR THE DELEGATION OF THE MANAGEMENT OF INTRAMUNICIPAL LANDS IN THE PUBLIC DOMAIN TO REGIONAL COUNTY MUNICIPALITIES IN THE ADMINISTRATIVE REGION OF BAS-SAINT-LAURENT

1. OBJECTIVE OF THE PROGRAM

To promote regional development by developing intramunicipal lands in the public domain in the administrative region of Bas-Saint-Laurent and by entrusting their management to the regional county municipalities in that region.

2. DEFINITIONS

For the purposes of this Program, unless the context indicates otherwise,

2.1 “territorial management agreement” means a multisectoral act of delegation whereby the Government entrusts management powers and responsibilities to a regional county municipality (RCM), on certain conditions; (*convention de gestion territoriale*)

2.2 “agreement” means the specific agreement between the Government and the Conseil régional de concertation et de développement du Bas-Saint-Laurent (CRCD du Bas-Saint-Laurent) on the management and development of the Bas-Saint-Laurent intramunicipal territory in the public domain; (*entente*)

2.3 “Minister” means the Minister of Natural Resources; (*ministre*)

2.4 “Program” means this program, prepared under Division II.2 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., c. M-25.2, amended by section 126 of Chapter 93 of the Statutes of 1997. (*programme*)

3. CONDITIONS OF ELIGIBILITY

To be eligible for the Program, a regional county municipality in the administrative region of Bas-Saint-Laurent shall

3.1 adopt a resolution whereby the municipality states its acceptance of the agreement and of all the terms and conditions, commitments and obligations under the agreement and the Program;

3.2 establish, by by-law, a development fund under sections 688.7 to 688.9 of the Municipal Code of Québec (R.S.Q., c. C-27.1); and

3.3 create, by by-law, a multiresource committee in charge of advising the RCM and representing all interests related to and to the preservation of natural environments and to the development and use of the territory covered by the delegation. Furthermore, the voting powers of the committee should be apportioned fairly to prevent the committee’s decision from being directed by particular interests or groups.

4. TERRITORY COVERED

4.1 The intramunicipal lands in the public domain on which the powers and responsibilities delegated under this Program shall be exercised are the lots, parcels of lots and any other part of the public domain including the buildings, improvements and movable property therein, which are located in the administrative region of Bas-Saint-Laurent, within the limits of the municipal territory of the region and are under the Minister’s jurisdiction. The lands are shown on the “Terres publiques intramunicipales déléguées” map for the Bas-Saint-Laurent region dated February 1999.

4.2 In addition to the lands referred to in 4.1, the lands in the public domain exempt from timber supply and forest management agreements, in an unorganized territory, which constitute a small area of lands in the Picard unorganized territory, and those of the former Parke forest educative centre, except for the area used for the arboretum of the Ministère des Ressources naturelles.

4.3 The following are expressly excluded from the territory covered :

(1) the water domain, that is, the beds of lakes and rivers up to the normal high water mark, including the water powers;

(2) lands in the public domain flooded following the construction and maintenance of a dam or any work related to the dam or required for its operation;

(3) any right-of-way of a route or highway under the management of the Minister of Transport of Québec, including in particular its infrastructure and all the works useful for its development or management; and

(4) any other land identified by the Minister.

4.4 Where land under the responsibility of an RCM is required for public use or interest or for any other purpose by order of the Government, or where land was incorrectly identified as included in intramunicipal lands in the public domain, the Minister may, after notification, exclude that land from the Program.

Such exclusion by the Minister could eventually lead to a fair compensation for any improvement made on that land by the RCM, at its own expense, without assistance from development funds or any government financial assistance program since the signing of the territorial management agreement, as well as for any actual damage, without further compensation or indemnity for any loss of expected profits or revenues.

5. DELEGATED POWERS AND RESPONSIBILITIES

For the purposes of the Program, the Minister may delegate to an RCM the powers and responsibilities with respect to land planning and management referred to in sections 5.1 and 5.2. That delegation is subject to the terms and conditions provided for in section 7.

The powers and responsibilities so delegated shall be exercised on the whole of the lands identified by the Minister in a list attached to the territorial management agreement.

In addition to those lands, the Minister may, after notification, delegate the management of any other intramunicipal public land under his jurisdiction.

5.1 Planning

With respect to planning, the Minister shall delegate to the RCM the responsibility for planning the development and use of the public territory (intramunicipal lands in the public domain and its natural resources) covered by the territorial management agreement signed by the RCM for at least five years. To that end, the RCM shall comply with the deadline fixed by the Minister and take into account the concerns of the population and users of the territory and resources. The RCM shall forward its planning to the Minister for approval before any other consultation. The RCM shall review the planning, make any necessary changes, ensure follow-up and include it in its development plan.

The Minister may intervene to help find a concerted solution that would lead to the adoption of the planning should the RCM be unable to reach a consensus on the carrying out of the planning. If need be, the Minister may impose an arbitration procedure.

5.1.1 The planning must:

(1) define the territory's vocation without changing that of the special interest lands identified by the Government in the public land use plan;

(2) indicate the general rules, terms and conditions for harmonizing and integrating the uses of the territory;

(3) take into account the Government's territory development guidelines and its special concerns communicated during the preparation of the said planning;

(4) take into account the regional strategic plan of the CRCD du Bas-Saint-Laurent.

5.2 Land management

For the purposes of this Program, the Minister shall entrust the management of intramunicipal lands in the public domain to an RCM that exercises the following powers and responsibilities under the Act respecting the lands in the public domain (R.S.Q., c. T-8.1, amended by Chapter 43 of the Statutes of 1997 and Chapter 24 of the Statutes of 1998) and its regulations:

(1) manage the land rights already granted other than leases for the utilization of water powers. To that end, the RCM shall manage and respect the rights granted until they expire, renew them and cancel them if the beneficiary fails to meet his obligations;

(2) grant and manage new land rights other than leases for the utilization of water powers, renew them, ensure the follow-up, amend them with the consent of the parties involved and cancel them if the beneficiary fails to meet his obligations;

(3) manage the buildings, improvements and movable property located on the lands covered by the delegation and, if need be, dispose of them according to the regulatory provisions;

(4) sell land, grant rights under emphyteutic contracts, transfer land gratuitously for public use in accordance with the regulations. However, the RCM shall first obtain the Minister's consent before granting those rights;

(5) grant servitudes and any other right;

(6) grant temporary occupation and visitor's licences;

(7) collect and keep all income, including expenses arising from the management of lands covered by the delegation;

(8) renounce the right of ownership of the Minister of Natural Resources in favour of the occupant of the land in the course of a cadastral renovation in accordance with sections 40.1 et seq. of the Act respecting the lands in the public domain (R.S.Q., c. T-8.1) and according to the criteria established by the Minister for such a renunciation;

(9) rectify any deed of alienation granted by the RCM and waive or amend the restrictive clauses in a deed of alienation granted by the RCM, in accordance with sections 35.1 and 40 of the Act respecting the lands in the public domain, or change the purposes therein;

(10) acquire by mutual agreement (gift, purchase, trade), for the benefit of the public domain, private lands, buildings, improvements and movable property. However, the RCM shall obtain the Minister's consent prior to such a transaction;

(11) publish a declaration stating that the land forms part of the public domain in accordance with sections 19 et seq. of the Act respecting the lands in the public domain;

(12) authorize the construction of roads other than forest and mining roads in accordance with sections 55 et seq. of the Act respecting the lands in the public domain;

(13) control the use and occupation of the territory

— by treating situations of illegal occupation and use, including in particular illegal dumping sites and gates within the meaning of the Act respecting the lands in the public domain, according to strict rules and methods in keeping with the Government's position that no privilege may be granted to anyone who illegally occupies or uses land in the public domain;

— by treating situations of precarious occupation according to the Regulation respecting the regularization of certain kinds of occupation of lands in the public domain, made under the Act respecting the lands in the public domain by Order in Council 233-89 dated 22 February 1989;

(14) institute penal proceedings in its own name for an offence committed on the territory covered by the management delegation, provided for in the Act respecting the lands in the public domain and its regulations, or in the by-laws adopted by the RCM in accordance with section 6;

(15) exercise all the recourses and powers conferred upon the Minister of Natural Resources under sections 60 to 66 of the Act respecting the lands in the public domain; and

(16) cause the limit between the public domain and private property to be determined and the signature of the owner to be affixed to the documents pertaining to cadastral operations, boundary marking or any motion for the judicial recognition of the right over property concerning the lands in the public domain covered by

the management delegation, in accordance with land survey instructions issued by the Minister of Natural Resources, as provided for in section 17 et seq. of the Act respecting the lands in the public domain.

6. REGULATORY POWERS

For the purposes of this Program, the Minister shall determine that an RCM may exercise, by means of by-laws adopted under subparagraph 5 of the second paragraph of section 14.12 of the Municipal Code of Québec (R.S.Q., c. C-27.1, amended by section 68 of Chapter 93 of the Statutes of 1999) and according to the conditions set out in section 6.1 of this Program, the powers referred to in subparagraphs 3 and 7 to 11 of the first paragraph and the second paragraph of section 71 of the Act respecting the lands in the public domain.

6.1 Conditions applicable to regulatory powers

The by-laws of the RCM, whose coming into force is subject to the rules prescribed by the Municipal Code of Québec, shall be first submitted to the Minister who may approve them, having ascertained that they are in keeping with the Government's principles and objectives and their regional consistency. More specifically, the RCM shall comply with the following principles:

(1) it shall keep the delegated intramunicipal lands in the public domain open to the public, in particular by allowing the free movement of persons;

(2) it shall preserve public access to the public water domain;

(3) it shall impose a tariff based on the market value; and

(4) it shall grant no privilege to a person who illegally occupies or uses land in the public domain, except to regularize a precarious situation eligible for a title under the Regulation respecting the regularization of certain kinds of occupation of lands in the public domain, made under the Act respecting the lands in the public domain by Order in Council 233-89 dated 22 February 1989.

By-laws respecting administration expenses shall pertain only to the cases already provided for in the regulations made under the Act respecting the lands in the public domain.

7. GENERAL TERMS AND CONDITIONS

7.1 An RCM entrusted with the management of intramunicipal lands in the public domain by the Minister under this Program, shall, in respect of all the follow-

ing items, comply with the corresponding terms and conditions:

Access to the public domain: the RCM shall maintain public access to the public domain and the public water domain;

Alienation of land: the Minister's agreement to a land alienation may be transmitted either in the course of the development and use planning referred to in section 5.1, or by a specific notice for projects not referred to in that planning;

Land surveying: any land surveying on lands in the public domain or affecting their limits, including boundary marking, and in particular the one required for an alienation, shall be carried out in accordance with sections 17 et seq. of the Act respecting the lands in the public domain and with the instructions of the of the Minister of Natural Resources.

Native peoples: the land rights granted by the RCM shall comply with government policy concerning Native peoples;

Multiresource committee: the RCM shall see that the representation referred to in section 3.3 is preserved. It shall request the committee's written advice on the following matters, that is, the development and use planning for the territory for which the RCM is responsible, the compliance of the development plans with the said planning and the use of the development fund;

Costs and expenses related to land management: all the costs and expenses related to the land management shall be charged, as the case may be, to the RCM, the acquirer, the applicant or the beneficiary of the right. Those costs and expenses include land surveying on land in the public domain, cadastral registration, boundary marking and the publication of rights for any transaction carried out by the RCM;

Land rights granted by the State: the RCM shall respect the rights granted by the State in accordance with the titles issued until they expire, renew them unless the beneficiary of the right is at fault and make sure, in exercising the powers and responsibilities delegated under the program, not to restrict in any way the exercise of a right granted or to be granted by the State;

Land rights related to vacation: land rights related to vacation shall respect the vacation development objectives set out in the Guide de développement de la villégiature sur les terres du domaine public prepared in April 1994 and in the Plan régional de développement de villégiature de la région du Bas-Saint-Laurent pre-

pared in May 1995 or any other document replacing them;

State and area of intramunicipal lands in the public domain: in exercising delegated powers and responsibilities, the RCM shall accept the lands as they are delimited, designated or surveyed at the time the territorial management agreement is signed, without any guarantee by the Minister as to their state or area; and

Rules and procedures: the operating rules and administrative procedures adopted by the RCM shall provide fair granting of rights and alienation of land on the territory covered for all those concerned and recognize the special principles and objectives defined in the territorial management agreement.

7.2 The RCM shall file the following reports:

(1) an annual report at 31 March to the Minister on its activities and the use of the income from start-up assistance, duties or similar income from the management of the applicable territory and income from the development carried out in that territory;

(2) every five years, an activity report to the Minister and the CRCD du Bas-Saint-Laurent on the results obtained versus the objectives set forth in the agreement and the objectives defined in the territorial management agreement, and on the assessment of the RCM's management of the powers and responsibilities delegated to it. In addition, the RCM shall make public the highlights of the report.

The Minister and the RCM shall agree within 12 months of the signing of the territorial management agreement on the objectives to be attained and on assessment criteria; and

(3) a report on the management of the fund including detailed statements of account and a detailed report on the expenditure of the amounts paid into the fund, according to a departmental grid.

7.3 The intramunicipal lands in the public domain covered by the delegation shall be administered and managed by the RCM without financial compensation from the Government.

7.4 The RCM shall collect and keep the income from the management of the intramunicipal lands in the public domain covered by the delegation, including administration expenses, from the date the territorial management agreement is signed. However, any amount collected by the Gouvernement du Québec or owed to it on the date of the signing remains its property without adjustment.

7.5 The Minister shall register in the Terrier or in any other register designated by him all alienations and rights granted by the RCM on the lands in question and shall issue attestations in writing of the information entered therein; the RCM shall collect all exigible expenses, including interest income, and shall remit them entirely to the Minister, according to the terms and conditions defined in the territorial management agreement. When the Minister will have implemented a formal procedure to make it possible for the RCM to directly enter rights in the official land register, he will contact the RCM to adapt the relevant terms and conditions in the territorial management agreement.

7.6 An RCM that exercises the powers and responsibilities provided for in this Program acts in its own name and any action it takes is in no way binding on the Government.

Subject to the special provisions of section 6, the RCM shall comply with the Act respecting the lands in the public domain and its regulations, as amended.

8. FINAL PROVISIONS

8.1 The territorial management agreement respecting land planning and management has a renewable five-year term.

When the land management delegation expires, the Minister shall again be fully responsible for the management of the intramunicipal lands in the public domain that he had delegated.

The Minister may also terminate the delegation if the RCM fails to comply with the terms and conditions applicable to the delegation.

8.2 Where the Minister is again responsible for the management of intramunicipal lands in the public domain he had delegated, the RCM shall send the Minister all the information required, including, in particular, the up-to-date books and records kept by the RCM for managing the lands. The RCM shall also give the Minister all the records that the Minister entrusted to it.

8.3 Any contestation by the holder of a right that was granted by the RCM and that results from differences in the management methods applied by the RCM and the Minister shall be submitted to the Minister.

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Gouvernement du Québec

O.C. 1176-99, 13 October 1999

Forest Act
(R.S.Q., c. F-4.1)

Agreement respecting the transfer to the regional county municipalities of the Bas-Saint-Laurent region, on an experimental basis, of responsibilities in the field of public forest management

WHEREAS the Gouvernement du Québec and the Conseil régional de concertation et de développement du Bas-Saint-Laurent have both consented to sign a specific agreement on the management and the development of the intramunicipal public territory of the Bas-Saint-Laurent in order to promote that territory's contribution to the revitalization, consolidation and economic development of the region and the local communities;

WHEREAS the delegation of powers and responsibilities for the management and development is one of the principal measures defined in the specific agreement and the delegation is based on the compliance with government principles and guidelines concerning land use, development and management of public territory and also on achieving objectives by giving the regional county municipalities (RCMs) and the parties involved at the regional and local levels the necessary freedom of choice with respect to the means of implementation;

WHEREAS under the Forest Act (R.S.Q., c. F-4.1), the Minister of Natural Resources holds the powers and responsibilities in the field of forest management;

WHEREAS under section 10.5 of the Municipal Code of Québec (R.S.Q., c. 27.1), an RCM may enter into an agreement with the Government under which certain responsibilities that are assigned by an Act or regulation to the Government, to a Minister or to a government body are transferred to the municipality on an experimental basis;

WHEREAS under section 10.6 of the Municipal Code of Québec, such agreement must set out the conditions governing the exercise of the assigned responsibility, the duration and, where applicable, the possibility of renewal, and the rules relating to the financing required for its implementation;

WHEREAS under section 10.8 of the Municipal Code of Québec, such agreement shall prevail over any inconsistent provision of any general law or special Act or any regulation thereunder;