



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 222

(Private)

An Act respecting Ville de Contrecoeur

Introduced 5 November 2002

Passage in principle 19 December 2002

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Assented to 19 December 2002

**Québec Official Publisher
2002**

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(Private)

AN ACT RESPECTING VILLE DE CONTRECOEUR

WHEREAS it is in the interest of Ville de Contrecoeur 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 town 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.

The motion may be granted only after publication in a newspaper distributed in the territory of the town of a notice requesting all persons 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 their rights, after deduction of 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 1981.

Publication of the notice replaces service. The notice shall indicate that it is given under this Act. The description of immovables concerned 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.

However, in respect of the remainder of the immovables registered at the registry office of the registration division of Verchères in the name of American Industrial Research Corp. or Can-Am Industrial Development Corp. that are parts of lots, the description of the immovables concerned is deemed to be sufficient notwithstanding articles 3036 and 3037 of the Civil Code of Québec if it mentions the name of either of those companies, the number of the original lot, the cadastre and if it indicates the number under which the instrument of acquisition of the company was published and the fact that the company did not transfer those immovables after having so acquired them.

Where the judgment grants the motion, it shall order the registrar to enter the judgment in the land register of the immovables so described to stand in lieu of title for the town even though the description of the immovables is not in conformity with the rules of the Civil Code of Québec in the matter.

No appeal lies from the judgment rendered on the motion.

3. The town becomes the owner of the immovables in respect of which publication of the judgment declaring ownership is effected at the registry office, and no claim may be subsequently made in respect of the immovables. The real rights that may affect the immovables concerned, including prior claims, hypothecs, resolute clauses or clauses that may give rights of cancellation, and servitudes other than servitudes of public utility are extinguished.

The clerk of the town may draw up a list of the real rights other than servitudes of public utility that encumber the immovables described in the judgment declaring ownership that have been published and that are extinguished under this section and, on an application to that effect, the registrar shall cancel the registration of those rights.

The publication gives title to the town, the validity of which cannot be contested for any reason.

4. The town may, to consolidate land or to reconstitute the original lots in the sector described in the schedule and 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 or expropriation, exchanges provided for in section 4 and alienations referred to in section 26 do not constitute an alienation within the meaning assigned to that term in the definition 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 28 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 at 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) a description of the immovable that the town wishes to acquire ;
- (2) the name of the owner of the immovable ;
- (3) a description of the immovable offered as consideration ;
- (4) the time limit for filing an objection with the town.

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

7. The owner of the immovable that the town wishes to acquire may, within 60 days of the date of being served the notice referred to in section 6, file with the town an objection, in writing and with reasons, to the consideration offered. Holders of real rights in the immovable and, in particular, holders of claims secured by a prior claim or hypothec on the immovable also 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 town, 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 set out in the first paragraph, the town shall make 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 town 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 town may enter into an agreement with the owner or holder in relation to the exchange.

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

Any agreement entered into must be evidenced in writing. After payment or deposit in the Superior Court of the sum of money agreed upon, if any, the town shall make the exchange.

9. Failing agreement within 30 days after the expiry of the time for filing a notice of objection, the owner of the immovable that the town 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-day period, by a motion served on the town, apply to the Administrative Tribunal of Québec to have the Tribunal fix the amount of fair consideration resulting from the exchange.

Within that 15-day period, the owner, lessee or occupant of an immovable upon which there is a servitude other than a servitude of public utility upon the immovable that the town wishes to acquire may apply to the Administrative Tribunal of Québec to have the Tribunal fix the amount of the indemnity resulting from the extinction of the servitude.

Where, at the expiry of the 15-day period provided for in the first paragraph, no application has been made to the Administrative Tribunal of Québec in relation to the consideration, the town may make the exchange as proposed.

10. Where a person has made an application under section 9, the Administrative Tribunal of Québec shall hear the parties and fix the consideration or the indemnity payable to that person.

The consideration fixed to give effect to an application made under the first paragraph of section 9 may consist, in whole or in part, of an immovable.

The indemnity fixed to give effect to an application made under the second paragraph of section 9 may consist only of a sum of money.

Following the decision of the Administrative Tribunal of Québec and, as the case may be, the payment of the sum ordered or its deposit in the Superior Court, the town shall make the exchange.

11. Sections 40.1, 48 and 58 of the Expropriation Act apply to the proceedings, with the necessary modifications.

12. The ownership of an immovable described in a notice under section 6 is transferred by the publication of a notice of the transfer at the registry office. The notice of transfer shall contain the description of the immovable referred to therein and contain a reference to the notice served pursuant to section 6 consisting of the publication number at the registry office.

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

Servitudes of public utility shall continue to encumber the immovable acquired by the town, but the other servitudes are extinguished.

13. The town 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 the owner. The document must mention the number under which the notice was published at the registry office and is valid as title of ownership.

14. As of 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. Registration of the real rights that affected the immovable acquired by the town and that may be transferred to the immovable transferred as consideration pursuant to section 12 must be carried over to 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 any notice of carrying over consequent to a requisition presented more than six months after the transfer of ownership is without effect.

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

16. Upon publication of a notice referred to in section 12, the clerk of the town shall send, by registered or certified mail, to the holders of real rights in the immovable acquired by the town other than servitudes, including claims secured by a 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 rights in respect of which they appear as holders to the immovable transferred as consideration by the town.

17. The second paragraph of section 3 applies, with the necessary modifications, to the notice of transfer referred to in section 12.

The cancellation of registration of real rights other than servitudes shall not prevent 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 the transfer of an immovable under section 4.

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 section 4.

20. This Act shall not operate to limit or prevent all or any of the provisions of a fiscal law within the meaning of section 1 of the Taxation Act (R.S.Q., chapter I-3).

21. This Act does not apply to an immovable real right published pursuant to an Act, regulation, order in council, order, agreement or arrangement by the Minister of Revenue.

22. The town may withdraw wholly or partially from a measure taken for the purpose of exchanging an immovable to which this Act applies, before publication of the notice referred to in section 12.

No damages that may be granted following the 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 the roll under 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 town, by inserting the following sections after section 486:

“486.1. In addition to any property tax that it may impose and levy on land situated in the sector described in the schedule to the Act respecting Ville de Contrecoeur (*insert here the year of assent and chapter number of that Act*), the council may impose and levy annually on that land a surtax that may be equal to the total property taxes that the town may impose and levy on such land for the fiscal year concerned. The council may by by-law order that the amount of the surtax for a parcel of 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.

“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 property value exceeds 25% of the property 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 powerlines;

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

(5) land that may be used for purposes other than agriculture under an authorization of the Commission de la protection du territoire agricole du Québec or that benefits from acquired rights within the meaning of Chapter VII of the Act to preserve agricultural land and agricultural activities.

“486.3. 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 Contrecoeur (*insert here the year of assent and chapter number of that Act*) and reconversion of land for agricultural purposes. In particular, the sums may be used for the purpose of acquiring land by agreement or by expropriation and exchanging or alienating land.”

24. Where the town, 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.

25. Every operation carried out under section 24 must be authorized by the Minister of Agriculture, Fisheries and Food after the opinion of the Commission de protection du territoire agricole du Québec has been obtained.

26. The town shall, within two years following the authorization required under section 25, 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 town 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 an extension for the selling of the lot or, at the request of the council, authorize the town to retain it permanently.

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

27. This Act shall not affect a case pending on 14 January 2002.

28. The title obtained by Ville de Contrecoeur under this Act in respect of immovables situated in the territory described in the schedule may not be contested.

29. All the hypothecary rights, resolutive clauses and giving in payment clauses encumbering the parts of lots 224 and 228 of the cadastre of the parish of Contrecoeur described in the deeds of sale registered at the registry office of the registration division of Verchères under Nos. 67039, 67040, 67194, 67195, 81994, 92799 and 92800, and in the deed of collateral security published at that registry office under No. 131522, are hereby abolished and extinguished.

The registrar of the registration division of Verchères shall, upon the presentation of an authentic copy of this Act, in prescribed form, cancel all the rights and record all the particulars required in the proper registers.

30. This Act comes into force on 19 December 2002.

SCHEDULE

1. A territory forming part of the cadastre of the parish of Contrecoeur and comprising the lots or parts of lots, their present and future subdivisions and redivisions, the whole contained within the perimeter hereinafter described, to wit:

Starting from the north corner of lot 385; in a southeasterly direction, along the northeast limit of lot 385, to the east corner of the said lot; from that corner, in a southwesterly direction, along the southeast limit of lots 385, 384, 383 and 382, being a part of the southeast limit of the territory of Ville de Contrecoeur, to the south corner of lot 382-212; from that corner, in a northwesterly direction, along the northeast limit of lot 381, to the west corner of lot 382-13; from that corner, in a northeasterly direction, along the southeast limit of rang du Ruisseau, to the north corner of lot 383-28; from that corner, in a southeasterly direction, along the northeast limit of lots 383-28, 383-54, 383-53, 383-52 and 383-51, to the east corner of lot 383-51; from that corner, in a northeasterly direction, along the northwest limit of lot 383-2, the southeast limit of lot 383-1-1 and the northwest limit of lot 383-402, to the north corner of lot 383-402; from that corner, in a northwesterly direction, along the southwest limit of lot 384, to the west corner of lot 384; from that last corner, in a northeasterly direction, along the southeast limit of rang du Ruisseau to the starting point, namely the north corner of lot 385.

2. A territory consisting of a part of lot 378 of the cadastre of the parish of Contrecoeur, that part being more completely described as follows:

Starting from a point resulting from the intersection of the east limit of rang du Ruisseau and the dividing line of lots 378 and 379; from that point, in a southeasterly direction, along the limit dividing lots 378 and 379, for a distance of 1,568.88 metres, to the point resulting from the intersection of the limit dividing lots 378 and 379 and the southeast limit of that lot 378, being a part of the southeast limit of the territory of Ville de Contrecoeur; from that point, in a southwesterly direction, along the southeast limit of that lot 378, being a part of the southeast limit of the territory of Ville de Contrecoeur, for a distance of 155.40 metres, to the south corner of the said part of lot 378; from that point, in a northwesterly direction, along the southwest line of the said part of lot 378 (line that is substantially parallel to the dividing limit of lots 378 and 379), for a distance of 1,464.36 metres, to the point resulting from the intersection of the east limit of rang du Ruisseau and the southwest limit of the said part of lot 378; from that point, in a northerly direction, along the east limit of rang du Ruisseau, for a distance of 104.43 metres, to the point resulting from the intersection of the east limit of rang du Ruisseau and the southwest limit of the property of Michel Gosselin and Manon Lachance (lot 378 PT); from that point, in a southeasterly direction, along the southwest limit of the property of Michel Gosselin and Manon Lachance (lot 378 PT), for a distance of 30.48 metres, to the south corner of the property of Michel Gosselin and Manon Lachance (lot 378 PT); from that point, in a northeasterly direction, along the southeast limit of the property of Michel Gosselin and

Manon Lachance (lot 378 PT), for a distance of 36.82 metres, to the east corner of the property of Michel Gosselin and Manon Lachance (lot 378 PT); from that point, in a northwesterly direction, along the northeast limit of the property of Michel Gosselin and Manon Lachance (lot 378 PT), for a distance of 44.20 metres, to the point resulting from the intersection of the east limit of rang du Ruisseau and the northeast limit of the property of Michel Gosselin and Manon Lachance (lot 378 PT); from that point, in a northerly direction, along the east limit of rang du Ruisseau, for a distance of 47.74 metres, along a straight line and for a distance of 29.44 metres along a curve having a radius of 218.48 metres, to the starting point, namely the point resulting from the intersection of the east limit of rang du Ruisseau and the dividing line of lots 378 and 379.

The whole as shown on the plan prepared by Michel Dansereau, land surveyor, on 4 October 2002 under No. 02-3342 of his minutes.