



NATIONAL ASSEMBLY

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Bill 212

(Private)

**An Act respecting Ville de
Brownsburg-Chatham, Ville de Lachute
and Municipalité de Wentworth-Nord**

Introduction

**Introduced by
Mr. David Whissell
Member for Argenteuil**

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Bill 212

(Private)

AN ACT RESPECTING VILLE DE BROWNSBURG-CHATHAM, VILLE DE LACHUTE AND MUNICIPALITÉ DE WENTWORTH-NORD

AS it is in the interest of Ville de Brownsburg-Chatham, Ville de Lachute and Municipalité de Wentworth-Nord that certain powers be granted to them, in particular, to allow them to consolidate land;

As Ville de Brownsburg-Chatham considers it necessary to make certain amendments to Order in Council 1112-99 dated 29 September 1999;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The word “municipality”, wherever it is used in this Act, refers to Ville de Brownsburg-Chatham, Ville de Lachute and Municipalité de Wentworth-Nord.

The expression “sector described in the schedule”, wherever it is used, refers to a sector described in Schedule A for Ville de Brownsburg-Chatham, Schedule B for Ville de Lachute and Schedule C for Municipalité de Wentworth-Nord.

2. The municipality may, in a sector described in the schedule, be declared the owner of an immovable on which municipal taxes have not been paid for three consecutive years.

The municipality may also, in a sector described in the schedule, be declared the owner of an immovable which is not entered on the assessment roll or is exempt from property tax and is identified as or considered by the court to be a future thoroughfare.

3. The application is made by a motion presented before the Superior Court sitting in the district in which the immovable is situated. The motion may concern more than one immovable belonging to different owners.

The motion may be granted only after publication of a notice in a newspaper in the territory of the municipality requesting all persons who may have rights respecting the immovables to appear in court within 60 days in order to claim an indemnity equal to the value of their rights, after the 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. The indemnity claimed may not exceed the actual value of the immovable before the deduction, on the date of coming into force of this Act.

The publication of the notice replaces service. The notice must indicate that it is given under this Act.

The description of the immovables concerned that are parts of a lot is deemed to be sufficient if it mentions the lot number and the approximate area of the part of the lot concerned as well as the name of its owner.

If the judgment grants the motion, it orders the registrar to enter the judgment in the land register of the immovables so described to stand in lieu of title for the municipality even if the description of the immovables does not comply with the rules of the Civil Code of Québec in the matter.

No appeal lies from the judgment rendered on the motion.

4. The municipality 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 in respect of the immovables may be made at a later time. The real rights that may affect the immovables concerned, including prior claims, hypothecs, resolutive clauses or clauses granting rights of cancellation, and servitudes other than public servitudes are extinguished.

The municipality may draw up a list of the real rights, other than public servitudes, 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 cancels the registration of those rights. The publication gives title to the municipality, the validity of which cannot be contested for any reason.

5. To consolidate land or to reconstitute the original lots in a sector described in the schedule that is situated in an agricultural zone established by an order under the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., chapter P-41.1) and on which the municipality wishes to promote, ensure or maintain agricultural operations, the municipality may

- (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) transfer or lease the immovable; and
- (5) exchange an immovable it owns in its territory for another immovable it wishes to acquire, if their value is comparable. If the municipality considers that an unconditional exchange would not be appropriate, it may also offer as consideration an amount of money in lieu of or in addition to an immovable.

In order to consolidate land in a sector described in the schedule that is not situated in such an agricultural zone, the municipality may exercise the powers listed in the first paragraph, mainly to facilitate, ensure or maintain logging operations.

6. Acquisitions by agreement or expropriation, exchanges provided for in the first paragraph of section 5 and transfers referred to in section 28 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.

7. An offer of exchange is made by service on the owner of a notice to that effect, accompanied by the text of sections 5 to 23 and 29 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 is then 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 municipality wishes to acquire;
- (2) the name of the owner of the immovable;
- (3) a description of the immovable offered as consideration; and
- (4) the time limit for filing an objection with the municipality.

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

8. Within 60 days of the date of being served the notice referred to in section 7, the owner of the immovable that the municipality wishes to acquire may file with the municipality a substantiated objection, in writing, 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 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 public servitude may, within the same time, file a substantiated objection with the municipality, in writing, 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, if no objection to the consideration offered has been filed, the municipality makes the exchange with the owners of the immovables.

9. If, within the time mentioned in section 8, the owner of the immovable that the municipality wishes to acquire or the holder of a real right in the immovable, other than a servitude, files a substantiated objection in writing, the municipality may enter into an agreement on the exchange with that person.

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

Any agreement entered into must be evidenced in writing. After payment or deposit with the Superior Court of any sum of money agreed upon, the municipality makes the exchange.

10. Failing agreement within 30 days after the expiry of the time for filing a notice of objection, the owner of the immovable that the municipality 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 municipality, apply to the Administrative Tribunal of Québec to have the Tribunal determine fair consideration for the exchange.

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

If, 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 municipality may make the exchange as proposed.

11. When a person makes an application under section 10, the Administrative Tribunal of Québec hears the parties and determines the consideration or the indemnity payable to that person.

The consideration giving effect to an application made under the first paragraph of section 10 may consist, in whole or in part, of an immovable.

The indemnity giving effect to an application made under the second paragraph of section 10 may consist only of a sum of money.

Following the decision of the Administrative Tribunal of Québec and, if applicable, the payment of the sum ordered or its deposit with the Superior Court, the municipality makes the exchange.

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

13. The ownership of an immovable described in a notice under section 7 is transferred by the publication of a notice of the transfer at the registry office. The notice of transfer contains the description of the immovable referred to and a reference to the notice served under section 7, indicating its publication number at the registry office.

The real rights in the immovable acquired by the municipality, other than the servitudes, are transferred to the immovable transferred as consideration.

Public servitudes continue to encumber the immovable acquired by the municipality, but the other servitudes are extinguished.

14. The municipality sends the owner with whom an exchange has been made a certified true copy of or extract from the notice referred to in section 13 that concerns the owner. The document must mention the number under which the notice was published at the registry office and is valid as a title of ownership.

15. 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.

16. Registration of the real rights that affected the immovable acquired by the municipality and that may be transferred to the immovable transferred as consideration under section 13 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 municipality.

17. Upon publication of a notice referred to in section 13, the municipality sends the holders of real rights in the immovable acquired by the municipality, including claims secured by a prior claim or hypothec on the immovable but excluding servitudes, a notice, by registered mail, advising them to carry over to the immovable transferred as consideration by the municipality the registration of the real rights in respect of which they appear as holders, within six months after the transfer of ownership.

18. The second paragraph of section 4 applies, with the necessary modifications, to the notice of transfer referred to in section 13.

The cancellation of the registration of real rights other than servitudes does not prevent the application of section 16.

19. 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 5.

20. The Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) does not apply to an immovable exchanged in accordance with the first paragraph of section 5.

21. This Act does not operate to limit or prevent the application of all or any 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. This Act does not apply to an immovable real right published under an Act, regulation, order in council, order, agreement or arrangement administered by the Minister of Revenue.

23. The municipality 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 13.

Damages granted following withdrawal may not exceed the value of the immovable entered on the assessment roll in force on the date on which the notice under section 7 is sent, multiplied by the factor established for the roll under the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

24. In addition to any property tax that it may impose and levy on land situated in a sector described in the schedule, the municipality may, by by-law, impose and levy annually on that land a surtax that may be equal to the total property taxes that the municipality may impose and levy on that land for the fiscal year concerned.

The by-law may set a minimum amount for the surtax, which may not exceed \$200. It may also indicate the categories of land subject to the surtax and impose a surtax whose rate may vary according to the category.

25. The following lands are not subject to the surtax provided for in section 24:

(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); and

(5) land that may be used for purposes other than agriculture under an authorization of the Commission de 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.

26. The municipality must, by by-law, create a financial reserve for the benefit of a sector described in the schedule for the purpose of financing the consolidation of land, and allocate to that reserve the revenue from the surtax imposed under section 24.

The sums from the reserve may be used solely to further, in the sectors described in the schedules, the consolidation, the acquisition by agreement or by expropriation, the exchange, the transfer and, in an agricultural zone established by an order under the Act respecting the preservation of agricultural land and agricultural activities, the reconversion of land for agricultural purposes.

The by-law must set out, in particular, the length of time the reserve will exist and the allocation of the amount, if any, by which the income of the reserve exceeds its expenditures. If there is no such provision, any excess amount is paid into the general fund.

27. When, under this Act, the municipality becomes the owner of immovables that are sufficient to be used for genuine and sustained agricultural purposes, in a sector described in the schedule and situated in an agricultural zone established by an order under the Act respecting the preservation of agricultural land and agricultural activities, it submits a plan to the Minister of Natural Resources, Wildlife and Parks 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.

Every operation carried out under the first paragraph of this section 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.

28. Within two years following the authorization required under section 27, the municipality must offer for sale, at its actual value, the lot concerned by the cadastral amendment so that it may be used for agricultural purposes, and must so advise the Minister of Agriculture, Fisheries and Food and the Fédération régionale de l'Union des producteurs agricoles.

If the municipality fails to find a purchaser for a lot at its actual value within the required time, it must 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 municipality to retain it permanently.

The municipality may, with respect to an immovable it is authorized to retain, carry out development, restoration, demolition or clearing work, or operate or lease it.

29. The title the municipality obtains under this Act to immovables situated in the sectors described in the schedules may not be contested.

30. The municipality may enter into an agreement with a non-profit organization, entrusting it with the administration, management and operation of an immovable acquired under this Act, and lend the organization money for those purposes. The municipality may also use the money from the financial reserve created under section 26 to finance the activities of that organization.

31. Section 20 of Order in Council 1112-99 dated 29 September 1999 constituting Ville de Brownsburg-Chatham is amended by replacing “five” in the first line by “12”.

32. This Act does not affect any case pending immediately before the coming into force of the Act.

33. This Act comes into force on (*insert the date of assent to this Act*).

SCHEDULE A

The sectors of the territory of Ville de Brownsburg-Chatham comprising lots 534, 792, 793, 892, 940 to 946, 972 to 976, 981 to 988, 997 to 999, 1014 to 1019, 1033, 1034, 1035 and 1053 to 1058 of the cadastre of Canton de Chatham, registration division of Argenteuil, their subdivisions, their replacements, any cadastral amendments and their parts, present or future.

SCHEDULE B

The sectors of the territory of Ville de Lachute comprising lots 1794, 1860, 1879, 1880, 1894, 1966, 1967 and 1968 of the cadastre of Paroisse de Saint-Jérusalem, registration division of Argenteuil, their subdivisions, their replacements, any cadastral amendments and their parts, present or future.

SCHEDULE C

The sectors of the territory of Municipalité de Wentworth-Nord comprising lots 23B, 24, 28A and 28B of Range 1; 8, 9A and 9B of Range 9; 8, 9, 10, 11A, 11B and 12A of Range 10; and 7, 8, 9, 10 and 11 of Range 11 of the cadastre of Canton de Wentworth, registration division of Argenteuil, their subdivisions, their replacements, any cadastral amendments and their parts, present or future.

