

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 1587

A BY-LAW to enlarge and extend the time within which action or actions may be commenced against the Corporation at the suit of the Greater Vancouver Water District, in certain cases.

WHEREAS the Corporation of the District of Burnaby (in the recitals herein contained referred to as the "Corporation") being a Municipality within the meaning of the "Greater Vancouver Water District Act", Chapter 22 of the Statutes of British Columbia, 1924, and amending Acts, has by Agreement entered into by virtue of the Provisions contained in Section 82 of the said Act, and ratified by the electors of the said Municipality, been added to the Greater Vancouver Water District.

AND WHEREAS in respect of water supplied by the Greater Vancouver Water District to the Corporation for and during the respective months of March, April, May, June, July, August, September, October, November and December, 1932, certain accounts rendered for each of the said months by the said Water District to the Corporation remain unpaid by the latter.

AND WHEREAS the Corporation was unable to pay the said accounts or any of them within one year after the cause of action or actions, in respect of the said accounts, arose.

AND WHEREAS it is inter alia provided by Subsection 2 of Section 451 of the Municipal Act being chapter 179 of the Revised Statutes of British Columbia 1924, as amended by Section 19 of the Municipal Act Amendment Act, 1933 that the Council of a Municipality may enlarge and extend the time

for commencement of action against the Municipality for such period of time as may be designated by the Council in any particular case.

AND WHEREAS, invoking the provisions of the said Municipal Act mentioned in the immediately preceding paragraph, a By-law known as the "District of Burnaby Greater Vancouver Water District Accounts Payment Extension By-law 1933" was passed by the Corporation on the 7th, reconsidered by the Commissioner thereof, finally adopted and signed by him and executed under the Corporate seal on the 14th, and approved by the Lieutenant-Governor in Council on the 20th, all days of June 1933, whereby the Corporation did consent and agree that any action or actions against it for recovery of the said accounts or any of them separately or collectively, might be commenced by the Greater Vancouver Water District at any time up to the 30th day of April, 1937, inclusive, and that if so commenced the Corporation should be absolutely barred, stopped and prohibited from pleading, alleging, contending or in any way taking advantage of the terms of the Municipal Act or any other act or law dealing with or having reference to the limitation of time within which such actions may be brought or commenced; all as more fully set forth in the said By-law which is numbered 1450.

AND WHEREAS, but for the passing of this By-law, the remedies open to the Greater Vancouver Water District for enforcing payment of the said accounts and each of them, by way of action or actions against the Corporation, would be barred, impaired or affected were such action or actions not commenced on or prior to the said 30th day of April, 1937.

AND WHEREAS Hugh M. Fraser was appointed Commissioner of the Municipality of Burnaby under Part XXIII of the

Municipal Act, on the 12th day of February 1934 and as such, has under the said Statute, power to pass such By-laws and exercise such powers as might have been passed and exercised by the Council of the Municipality.

AND WHEREAS the Corporation is and will be unable to pay the said accounts, or any of them, now or on or before the said 30th day of April 1937.

AND WHEREAS the said Commissioner acting as such is desirous of designating a period of time beyond the said 30th day of April, 1937, within which action or actions may be commenced against the Corporation in respect of the said accounts and each of them, it being understood and agreed between the Corporation and the Greater Vancouver Water District that notwithstanding any judgment or order, opinion, submission, contention or argument, if any, which may have been or may be made, held or advanced to the contrary, the amendment to the Interpretation Act, being Chapter 1 of the Revised Statutes of British Columbia 1924 as enacted by Section 5 of the Interpretation Act Amendment Act 1934, enables the said Commissioner again to extend the time within which action or actions may be commenced by the Greater Vancouver Water District for recovery of the said accounts and each of them as hereinafter appearing.

THEREFORE, in consideration of the Greater Vancouver Water District forbearing from commencing any action or actions against the Corporation before the said 30th day of April 1937 in respect of the said accounts or any of them the said Commissioner, in exercise of all the powers in that behalf him thereunto enabling, enacts as follows:-

1.- It shall be lawful for the Corporation of the District of Burnaby to consent and agree, and the said Corpor-

ation hereby consents and agrees, that any action or actions against the Corporation for recovery of the said accounts, or any of them, separately or collectively, may be commenced by the Greater Vancouver Water District at any time up to the 30th day of April 1940 inclusive, and that if so commenced the Corporation shall be absolutely barred, estopped and prohibited from pleading, alleging, contending or in any way taking advantage of the terms of the Municipal Act or any other act or law dealing with or having reference to the limitation of time within which such actions may be brought or commenced.

2.- That the period between the said 30th day of April 1937 and the said 30th day of April 1940, shall be regarded as a further period of time designated by the said Commissioner within which action or actions may be commenced for the recovery of the said accounts, each and all of them.

3.- That the Corporation of the District of Burnaby shall be and is hereby estopped and precluded from alleging or pleading or in any way contending that the intent and meaning of the said Amendment to the said Interpretation Act is other than that agreed to between the Corporation and the Greater Vancouver Water District as before set forth enabling the said Commissioner to pass this By-law as valid and enforceable in all its provisions; that the same shall not be capable of being revoked, repealed or rescinded in any way, and that a copy thereof, certified to be a true copy under the hand of the Commissioner and Sealed with the Corporate Seal of the Corporation of the District of Burnaby and delivered to the Greater Vancouver Water District shall be regarded as an Agreement entered into under seal by the said Corporation and enforceable against it at the instance of the Greater Vancouver Water District according to its terms.

4.- That in the event of its being alleged or found at any time that the powers herein exercised by the Commissioner should have been exercised by him by way of resolution in place of By-law, this By-law shall in that event be regarded as a resolution, and as such be obligatory upon the Corporation of the District of Burnaby, according to its full tenor and purport.

5.- This By-law shall not come into force and effect unless and until it shall have received the approval of the Lieutenant-Governor in Council.

6.- This By-law may be cited for all purposes as the "District of Burnaby Greater Vancouver Water District Accounts Payment Extension By-law, 1937".

PASSED by the Commissioner of the Corporation of the District of Burnaby on the 14th day of April, 1937.

RECONSIDERED by the said Commissioner, finally adopted by him, and signed by him and the Clerk of the said Corporation, and sealed with the Corporate Seal on the 16th day of April 1937.



Hugh M. Fraser

COMMISSIONER

Charles B. Brown

CLERK

Approved by the Lieutenant-Governor in Council

the *20th* day of *April* 1937 (See Order In Council
Number *465*)

I, CHARLES B. BROWN, hereby certify the fore-
going to be a true copy of a by-law passed by the Com-
missioner for the Corporation of the District of Burnaby
on the 16th day of April A. D. 1937.

DATED at Burnaby, B. C. the 16th day of April,
A. D. 1937.


CLERK