

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 1610

A BY-LAW to enlarge and extend the time in which action may be commenced against the Corporation of the District of Burnaby at the instance of the Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority in certain cases.

WHEREAS the Corporation of the District of Burnaby (in the recitals herein contained referred to as the "Corporation") is a Municipality within the Sewerage District established by the "Vancouver and Districts Joint Sewerage and Drainage Act", being Chapter 79 of the Statutes of British Columbia 1914, and amending Acts:

AND WHEREAS the sum of money required by the Vancouver and Districts Joint Sewerage and Drainage Board to be paid by the Corporation on or before the first day of November, 1932, to the Minister of Finance for the purpose of the said board remains unpaid by the Corporation:

AND WHEREAS the Corporation was unable to pay the said sum or any part thereof within one year after the cause of action or actions in respect of the said sum arose:

AND WHEREAS it is inter alia provided by Subsection 2 of Section 487 (formerly Section 451 as amended) of the "Municipal Act" being Chapter 199 of the Revised Statutes of British Columbia 1936, 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 Vancouver and Districts Joint Sewerage and Drainage Board Account Payment Extension By-law 1933" was passed by the Corporation on the 25th

reconsidered by the Commissioner thereof, finally adopted and signed by him and executed under the Corporate Seal on the 30th day of October, both in the year 1933, and approved by the Lieutenant-Governor in Council on the 7th day of November 1933, whereby the Corporation did consent and agree that any action or actions against the said Corporation for recovery of the said sum might be commenced by the said Board or other proper authority at any time up to the first day of November 1937 inclusive, and that if so commenced the Corporation should 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 action may be brought or commenced, all as more fully set forth in the said By-law which is numbered 1463:

AND WHEREAS, but for the passing of this By-law, the remedies open to the Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority for enforcing payment of the said sum 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 1st. day of November, 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 sum, or any part thereof, now or on or before the said first day of November, 1937:

AND WHEREAS the said Commissioner acting as such is desirous of designating a period of time beyond the said first

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day of November, 1937, within which action or actions may be commenced against the Corporation in respect of the said sum, it being understood and agreed between the Corporation and the Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority 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, now being Subsection 1 of Section 28 of the Interpretation Act, Chapter 1 of the Revised Statutes of British Columbia 1936, enables the said Commissioner again to extend the time within which action or actions may be commenced by the Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority for recovery of the said sum as hereinafter appearing:

THEREFORE in consideration of the Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority refraining from commencing any action or actions against the Corporation before the said first day of November 1937, in respect of the said sum or any part thereof THE SAID COMMISSIONER in exercise of all the powers in that behalf him thereunto enabling ENACTS AS FOLLOWS:-

1. I shall be lawful for the Corporation of the District of Burnaby to consent and agree, and the said Corporation hereby consents and agrees, that any action or actions against the Corporation for the recovery of the said sum or any part thereof, separately or collectively, may be commenced by the Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority at any time up to the first day of November, 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 action or actions may be brought or commenced:

2. That the period between the said first day of November 1937 and the said first day of November 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 sum, or any part thereof.

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 provisions of the said Interpretation Act hereinbefore referred to is other than that agreed to between the Corporation and the Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority 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 Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority shall be regarded as an Agreement entered into under Seal by the said Corporation and enforceable against it at the instance of the Vancouver and Districts Joint Sewerage and Drainage Board or other proper authority 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 Vancouver and Districts Joint Sewerage and Drainage Board Account Payment Extension By-law 1937".

PASSED by the Commissioner of the Corporation of the District of Burnaby on the Twenty ninth (29th) day of September, 1937 A.D.

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 Sixth (6th) day of October, 1937A.D.



Hugh M. Fraser
COMMISSIONER.

Charles B. Brown
CLERK.

Approved by the Lieutenant-Governor in
Council the day of 1937.
(See Order In Council Number).