



CHAPTER 136

An Act to modify the servitude imposed on certain subdivisions of lot 218 of the Municipality of the Parish of Montreal

[Assented to, the 18th of May, 1935]

WHEREAS F. C. Browning, of the city of London, Preamble.
England, insurance manager; R. W. Lovell, of the city of Montreal, publicist; and Dame Helena M. Gilmore, have by their petition represented:

That by deed of sale executed before N. Dickson, Notary, on the fourth day of November, nineteen hundred and twelve, and registered in the registry office of the registration division of Hochelaga and Jacques Cartier, under the number 230280, The Westmount Land Company sold to John M. Elder subdivisions forty-seven, forty-eight, forty-nine, fifty, fifty-one and fifty-two of lot number two hundred and eighteen (218-47, 48, 49, 50, 51 and 52) on the official plan and book of reference of the municipality of the parish of Montreal with greater extent, all of which subdivisions front on Grosvenor Avenue in the city of Westmount;

That in the said deed of sale the following condition appears:

“6. Any buildings that may be erected on said land shall be built at least seventeen feet back from the line of the street in front and seven feet from either one or other of the side lines of said sold lot, and any stable or outhouse that may be built shall be placed at least seventy feet from the street”.

and such condition was created a servitude upon the land described therein in favour of the other subdivisions of the said lot fronting on the said Grosvenor Avenue;

That by deed executed before N. Dickson, Notary, on the fourth day of November, nineteen hundred and twelve, registered in the said registry office under the number 229897 the said The Westmount Land Company sold to Thomas Williamson subdivisions fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty and sixty-one of the said lot number two hundred and eighteen (218-56, 57, 58, 59, 60 and 61) on the said official plan, all of which front on the said Grosvenor Avenue.

That in the last-mentioned deed of sale a condition in the same terms as that cited above also appears; and that such condition likewise was created a servitude upon the land described therein in favour of the other subdivisions of the said lot fronting on the said Grosvenor Avenue;

That Robert W. Lovell one of the petitioners is the owner of an emplacement fronting on Grosvenor Avenue, in the city of Westmount, being the north-west part of subdivision lot fifty-six of lot number two hundred and eighteen (part 218-56), on the official plan and book of reference of the municipality of the parish of Montreal, containing forty feet in width by one hundred and eleven feet in depth, English measure and more or less; bounded in front by the said Grosvenor Avenue, in rear to the north-east by lot 218-159 on the said plan, to the south-east by the remaining part of said lot number 218-56, and to the north-west by lot number 218-55 on the said plan with the dwelling-house bearing civic number 709 Grosvenor Avenue and the garage thereon erected, and that the said dwelling-house is erected at a distance of fifteen feet from the line of Grosvenor Avenue, measured from the street line to the main front wall of the said dwelling-house; as appears from a plan made by Malcolm D. Barclay, Q.L.S., number 14215 and dated April 30th, 1935;

That Dame Helena M. Gilmore, wife of William A. Cooke, one of the petitioners, is the owner of an emplacement fronting on Grosvenor Avenue, in the city of Westmount, being the certain emplacement forming the north-east corner of Grosvenor Avenue and Sunnyside Avenue, in the said city of Westmount, containing a width of sixty feet on the south-west (Grosvenor Avenue) and north-east sides by a depth of fifty-five feet six inches on the south-east (Sunnyside Avenue) and north-west sides, English measure and more or less and composed of:

1st. The south-west half of the lot of land known and designated as subdivision fifty-seven of lot number two-hundred and eighteen (218-pt 57) of the official plan and book of reference of the municipality of the parish of

Montreal, containing, said half, fifty feet in width on the south-west (Grosvenor Avenue) and north-east sides, by a depth of fifty-five feet six inches on the south-east (Sunnyside Avenue) and north-west sides and bounded said portion as follows:—to the south-west by Grosvenor Avenue, to the south-east by Sunnyside Avenue, to the north-west by the portion next hereinafter described of subdivision fifty-six of said official lot and to the northeast by the remainder of said subdivision fifty-seven, and

2nd. A portion of the lot of land known and designated as subdivision fifty-six of said official lot number two hundred and eighteen (218-pt 56) containing, said portion, ten feet in width on the south-west and north-east sides by a depth of fifty-five feet six inches on the south-east and north-west sides, and bounded, said portion, as follows:—in front to the south-west by Grosvenor Avenue, in rear to the north-east and on one side to the north-west by the remainder of said subdivision fifty-six and on the other side to the south-east by the portion above described of said subdivision fifty-seven,—

With the dwelling-house bearing civic number 707 Grosvenor Avenue and the garage thereon erected, and that the said dwelling-house is erected at a distance of sixteen feet from the line of Grosvenor Avenue, measured from the street line to the main front wall of the said dwelling-house; as appears from the said plan made by Malcolm D. Barclay, Q.L.S., number 14215 and dated April 30th, 1935.

That Frederick Carpenter Browning, one of the petitioners, is the owner of an emplacement fronting on Grosvenor Avenue, in the city of Westmount, being the certain emplacement forming the north-west corner of Grosvenor Avenue and Sunnyside Avenue, in the said city of Westmount, measuring one hundred feet on the north-east (Grosvenor Avenue) and south-west sides, by fifty-five feet six inches on the south-east (Sunnyside Avenue) and north-west sides, of a total superficial area of five thousand five hundred and fifty feet, English measure and more or less, and composed of:

1st. The north-east half of the lot of land known and designated as subdivision number fifty-one of lot number two hundred and eighteen (218-pt. 51) on the official plan and book of reference of the municipality of the parish of Montreal, containing, said portion, fifty feet on the north-east (Grosvenor Avenue) and south-west sides, by fifty-five feet six inches on the south-east (Sunnyside Avenue) and north-west sides, and bounded, said portion, as follows:

to the north-east by Grosvenor Avenue, to the south-east by Sunnyside Avenue, to the south-west by the remainder of the said subdivision, and to the north-west by the portion next hereinafter described of subdivision fifty-two of said official lot, and

2nd. The north-east half of the lot of land known and designated as subdivision number fifty-two of said official lot number two hundred and eighteen (218-pt. 52), containing, said portion, fifty feet on the north-east (Grosvenor Avenue) and south-west sides, by fifty-five feet six inches on the south-east and north-west sides, and bounded, said portion, as follows:—to the north-east by Grosvenor Avenue, to the south-west by the remainder of said subdivision number fifty-two, on one side to the south-east by the portion above described of subdivision number fifty-one and on the other side to the north-west by part of subdivision number fifty-three of said official lot,—with the dwelling-house bearing civic number 708 Grosvenor Avenue thereon erected, and that the said dwelling-house is erected at a distance of sixteen feet six inches from the line of Grosvenor Avenue, measured from the street line to the front wall of the said dwelling-house; as appears from the said plan made by Malcolm D. Barclay, Q.L.S., number 14215 and dated 30th April, 1935.

That the said buildings were erected as at present located without any objection on the part of the city of Westmount or of any other person, and that no person has suffered or can suffer any prejudice by reason of the fact that such buildings are at a distance from the line of Grosvenor Avenue slightly less than seventeen feet, as provided in the said condition cited from the said deeds of sale;

That as there are nearly one hundred subdivisions of the said lot fronting on the said Grosvenor Avenue it is not practicable to obtain the consent of the proprietors thereof to the modification of the said servitudes;

That the city of Westmount, in order to conform to the said servitude, established by by-law a building line of seventeen feet in front of said lots on this part of Grosvenor Avenue, but now consents to the modification hereafter prayed for;

That because of the existence of the said servitudes the petitioners may be prevented from alienating or hypothecating the emplacements belonging to them respectively;

Whereas the petitioners have prayed for the passing of an act to modify the said servitudes and building line so far as concerns the emplacements respectively belonging to each of them and above described; and

Whereas it is expedient to grant the prayer contained in the said petition;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. The said servitudes created by the said deeds of sale and the said building line established by the said by-law, so far as they concern the emplacements above described, are hereby modified to the extent necessary to entitle the owners of the said emplacements and their legal representatives to have and to maintain the buildings erected upon the said emplacements as such buildings are now located, notwithstanding the fact that such buildings are erected at a distance of less than seventeen feet back from the line of Grosvenor Avenue, but should these buildings be reconstructed or replaced, they must be at a distance of seventeen feet from the line of Grosvenor Avenue, in conformity with the servitudes. Modifying of certain servitudes.

2. This act shall come into force on the day of its sanction. Coming into force.