



CHAPTER 64.

An Act to make valid and binding an Official Map or Survey of the City of Nanaimo.

[21st February, 1895.]

WHEREAS in the year 1866 the City of Nanaimo was surveyed Preamble.
by Messieurs Mohun and Farwell, Civil Engineers, and a map
or plan of the same duly made, which map is now deposited in the
office of the Registrar-General of Titles at the City of Victoria, and is
regarded as the official map of the said City of Nanaimo :

And whereas the said official map or plan is in such a damaged state
that measurements and angles cannot be obtained from it with
accuracy :

And whereas by reason of the absence of proper boundary posts
and monuments great difficulties have from time to time arisen in
ascertaining the lines of the streets of the said City of Nanaimo, as
the same were originally laid out and defined by the said plan of
Messieurs Mohun and Farwell :

And whereas since the making of the said survey and map the
limits of the said City of Nanaimo have been enlarged :

And whereas the Corporation of the City of Nanaimo has, in pur-
suance of the powers vested in it, caused a survey of the said city to
be made by A. R. Heyland, Provincial Land Surveyor, for the purpose
of ascertaining and accurately defining the street lines and boundaries
of the different lots and blocks in the City of Nanaimo :

And whereas A. R. Heyland, P L. S., has prepared a plan or map of
the said City in accordance with the survey and field-notes made by
him, the said A. R. Heyland :

And whereas boundaries and monuments have been placed by the said A. R. Heyland, under the directions of the Corporation of the City of Nanaimo, to mark the governing points and centre lines of the said streets, lots, and blocks :

And whereas it is expedient to declare that the said map or plan so made by the said A. R. Heyland, in pursuance of the survey of the said A. R. Heyland, shall be deemed and taken to be the official map or plan of the City of Nanaimo, so far as the boundaries of streets, lots, and blocks in the said City are concerned :

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows :—

Map of Nanaimo made by A. R. Heyland and field-notes to be deposited in Land Registry Office, Victoria.

1. The map or plan of the said City of Nanaimo made by A. R. Heyland, dated 2nd January, 1894, in accordance with his survey and field-notes, as duly signed by the said A. R. Heyland, shall within one month from the passing of this Act, together with the field-notes of the said A. R. Heyland, P. L. S., be deposited in the office of the Registrar-General of Titles at the City of Victoria, who shall receive the same and file and keep the same among the records of his office.

Said map, when deposited, deemed official map.

2. The said map or plan of the City of Nanaimo, after the same shall have been deposited in the hands of the Registrar-General of Titles aforesaid, shall be deemed to be the official map of the said City of Nanaimo, and shall be taken as final and conclusive evidence of the boundaries of all streets, lots, and blocks in the said City of Nanaimo, and all street, lot, and block boundaries shall thereafter be ascertained and defined in accordance with the said map or plan, and all copies thereof duly certified by the Registrar-General of Titles for the time being shall be received in all Courts of Record and other Courts in British Columbia as true evidence of the original survey of such street, lot, and block boundaries or lines.

Permanent monuments.

3. The stone monuments, or monuments of other durable material, as placed at the several governing points and centres of streets, lots, and blocks in the said City of Nanaimo, in accordance with the plan or map certified and deposited with the Registrar-General of Titles, in pursuance of the first section of this Act, shall be taken and considered to be the permanent monuments, truly and correctly indicating the several governing points and centres of streets, lots, and blocks in the said City of Nanaimo.

Persons may have land surveyed by Corporation.

4. Any person owning, or occupying, or having an interest of any kind in any land abutting upon any street, lot, or block in the said City of Nanaimo, or the agent of any such person, may, at any time after the said map or plan shall have been deposited in the office of

the Registrar-General of Titles at the City of Victoria, in accordance with section one of this Act, apply to the Corporation of the City of Nanaimo to cause the boundary line of that portion and side of the street upon which such land shall abut to be surveyed and marked out, and it shall thereupon be the duty of the said Corporation, on payment to the said Corporation of the sum of ten dollars, to cause such boundary line to be surveyed and marked out in accordance with the map or plan made as aforesaid by the said A. R. Heyland. Fee \$10.

5. Any land shown by the said map to be included within the limits of any street, lot, or block shall henceforth be taken to be a portion of such street, lot, or block, notwithstanding that the same may be, or may at some previous time have been, in the possession of any person or persons, or that there are any buildings or improvements thereupon, and it shall thereupon become the duty of the owner, tenant, or other person interested in the land in front of which such street line shall be defined as aforesaid, on being required by notice in writing signed by the Clerk of the Municipal Council, to remove, within eighteen months after the service of such notice, from off the street, lot, or block all fences, buildings and other improvements which shall be shown by the said boundary line to be upon the street, lot, or block; and in default of compliance with the said notice it shall be lawful for the Corporation of the City of Nanaimo to cause such fences, buildings, and other improvements to be removed from the said street, lot, or block as aforesaid, and the cost of effecting such removal may be recovered by the said Corporation against the owner or tenant of the said land by action in any Court of competent jurisdiction: Provided always, that any person who shall be required under this Act to give up and surrender possession of any land, or who shall have any interest or estate in such land, or who shall be required to remove any fences or buildings or other improvements from such lands shall be entitled, subject to the exceptions hereinafter mentioned, to a reasonable compensation therefor, to be paid by the Corporation of the City of Nanaimo, to be agreed upon between such person and the said Corporation, and in case of disagreement between such person and the said Corporation as to the amount of compensation the same shall, at the option of the claimant, be decided by the Board of Arbitrators to be appointed as hereinafter directed, or by three arbitrators, to be appointed as hereinafter mentioned, namely:—The Corporation of the City of Nanaimo shall appoint one, the owner, tenant, or other person making the objection shall appoint another, and such two arbitrators shall appoint a third arbitrator within ten days after their appointment; but in the event of such two arbitrators not appointing a third arbitrator within the time aforesaid, one of the Judges of the Supreme Court shall, on the application of either party, by way of a summary application by summons in Chambers, of which due notice

Land forming part of a street, as shewn by said map.

Duty of owner to remove.

Corporation may remove fences, etc.

Compensation.

Arbitrators.

Infants, etc.

shall be given to the other party, appoint such third arbitrator. In case any such owner, or tenant, or other person, shall be an infant, married woman, or insane, or absent from this Province, and having no agent in the Province, or shall refuse to appoint an arbitrator on his or her behalf, then it shall be the duty of each and every of the Judges of the Supreme Court of British Columbia, on application being made in manner aforesaid for that purpose by the Corporation of the City of Nanaimo, to nominate and appoint three persons to be arbitrators. The arbitrators to be appointed as hereinbefore mentioned shall be sworn before any of Her Majesty's Justices of the Peace in and for the City of Nanaimo, to well and truly decide the question between the persons claiming compensation as aforesaid and the Corporation of the City of Nanaimo. And it shall be the duty of the said Board of Arbitrators or the arbitrators appointed under this section, within three months after such questions shall be referred to them as aforesaid, to decide, award, determine, and adjudge the respective sums of money, if any, which the said Corporation shall pay to the person entitled to the same; and the award of the majority of the arbitrators shall be final. And the said arbitrators shall be and they are hereby required to attend at some convenient place, after eight days' notice given for that purpose by the said Corporation, or by the claimant for compensation, then and there to arbitrate and award, adjudge and determine, such matters and things as shall be submitted to their consideration, and each arbitrator shall be sworn before one of Her Majesty's Justices of the Peace in and for the City of Nanaimo, any of whom may be required to attend the meeting for that purpose, well and truly to assess the value or damages or amount of compensation, if any, between the parties, to the best of his judgment :
 Provided, always, that any award under this Act shall be subject to be set aside on application to the Supreme Court of British Columbia on the following grounds and no others, namely:—That the arbitrators have been guilty of misconduct or have awarded the compensation on a wrong principle, in which case reference shall be made to arbitration again as hereinbefore provided.

Duties of arbitrators.

Proviso.

When compensation is not to be allowed.

6. No person shall be entitled to any compensation in respect of any land which he may be required to surrender as part of a street, lot or block, under the provisions of this Act, or in respect of the removal of any improvements, if it shall be proved to the satisfaction of the Board of Arbitrators, or the arbitrators, as the case may be, before whom any claim for compensation may be pending, that the person making such claim has wilfully and knowingly encroached upon the street, or that he purchased and occupied the said land knowing that the original purchaser thereof from the Crown, or any other person, persons, or corporations claiming through him or them wilfully encroached upon the street upon which such land abuts, or

that after being deprived of such strip of land as may be shown by the said map or plan to be within the limits of the street, lot or block, there still remains to him the quantity of land mentioned in his muniments of title to the lot or portion of lots so held by him. And in all cases the onus of proving that any encroachment was wilfully and knowingly made, or that the claimant for compensation purchased or acquired his interest in the said land knowing that the original purchaser and occupier thereof from the Crown, or any other person, persons, or corporations claiming through him or them, had encroached upon the street upon which such land abuts, shall lie upon the said Corporation.

7. It shall be the duty of the Corporation of the City of Nanaimo within one month after the passing of this Act to appoint three persons to constitute a Board of Arbitrators under this Act, upon such terms as to compensation as may be agreed upon between the said Corporation and such persons. And the said arbitrators shall immediately after such appointment take and subscribe before some Justice of the Peace in the said City of Nanaimo the following oath of office:—

Appointment of Board of Arbitrators within one month.

“I, A. B., of ———, do swear that I will well and truly assess all claims for damages or compensation which may be submitted to me for my consideration under the provisions of ‘The Act to make valid and binding an official map of the City of Nanaimo.’”

Oath of arbitrators.

And such oath of office, duly subscribed and sworn, shall be immediately thereafter filed in the office of the Clerk of the said Corporation. The compensation to the said arbitrators for their services in any matter under the provisions of this Act shall be paid by the Corporation of the City of Nanaimo.

Oath to be filed.

Compensation of arbitrators.

8. Any vacancy occurring in the said Board of Arbitrators by death, resignation or otherwise, may, from time to time, be filled by the appointment of another person by the said Corporation.

Vacancies, how filled.

9. Whenever any person shall be entitled to any compensation under this Act, it shall be the duty of the Corporation to tender to such person, or his agent, such a sum of money as the said Corporation shall consider a proper compensation for the damage sustained by such person, and in the event of such tender not being accepted and an arbitration being held under the provisions of this Act to determine the amount of such compensation, then in case the arbitrators shall award no greater sum than the amount tendered as aforesaid, the costs of the arbitration, including the costs of the said Corporation, shall be in the discretion of the arbitrators; but in case the said arbitrators shall award to such claimant a greater sum than the amount tendered as aforesaid, or in case no tender shall have been

Tender of compensation by the city.

made, and compensation shall be awarded to the claimant, the cost of such arbitration, including the costs of the claimant, shall be borne by the said Corporation, and the said arbitrators shall so direct in their award.

Corporation may appropriate funds to carry out Act.

10. It shall be lawful for the Corporation of the City of Nanaimo, by resolution, to appropriate so much of the general funds of the said Corporation as may be necessary to carry out the provisions of this Act, and to pay any compensation which the said Corporation may be required to pay to any person claiming compensation under the provisions of this Act.

Short title.

11. This Act may be cited as the “City of Nanaimo Official Map Act, 1895.”

VICTORIA, B. C.:

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