



## CHAPTER 66.

## An Act relating to the Corporation of Point Grey.

[Assented to 11th December, 1925.]

**W**HEREAS the Corporation of Point Grey has by its petition Preamble.  
represented that the said Corporation is a municipality within  
the meaning of the "Municipal Act" and "Local Improvement Act,"  
and that it is necessary in the interest of the inhabitants and rate-  
payers of the municipality to enact the provisions hereinafter con-  
tained, and has prayed that the same may be enacted accordingly:

And whereas it is expedient to grant the prayer of the said  
petition:

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

*Short Title.*

1. This Act may be cited as "Point Grey Improvement Act" Short title  
Amendment Act, 1925."

2. The "Point Grey Improvement Act," being chapter 49, Statutes Amends "Point  
Grey Improvement  
Act"  
of British Columbia, 1924, is hereby amended by inserting between  
sections 1 and 2 thereof the word and numeral:—

**"PART I."**

3. Said "Point Grey Improvement Act" is hereby further amended Amends "Point  
Grey Improvement  
Act"  
by adding thereto the following as Part II., comprising sections 10  
to 43, inclusive:—

**"PART II.***"Interpretation.*

"10. (1.) In this Part, unless the context otherwise requires:— Interpretation

"'Assessed' means assessed upon the last revised assessment  
roll of the Corporation pursuant to the 'Municipal Act':

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- “ ‘Certified’ means certified by the Clerk under the seal of the Corporation:
- “ ‘Clerk’ means the Municipal Clerk of the Corporation:
- “ ‘Crown’ means the Crown in right of the Province:
- “ ‘District’ means the district referred to in section 9, or any portion or portions thereof heretofore or hereafter defined by the Council:
- “ ‘Former parcel’ means a parcel existing prior to the completion of the undertaking:
- “ ‘Highway’ or ‘street’ includes all public highways, streets, roads, alleys, lanes, thoroughfares, trails, bridges, and any other public way:
- “ ‘Land Registry’ means the Land Registry Office for the Vancouver Land Registration District:
- “ ‘New parcel’ means a parcel created or intended to be created by the undertaking:
- “ ‘Non-consenting owner’ means an owner who has not approved a scheme of replotting and given the consent as mentioned in section 11:
- “ ‘Owner’ means the purchaser of land from the Crown or the Corporation under agreement for sale, the registered owner of an estate in fee simple in and the registered holder of a charge upon land as defined by the ‘Land Registry Act,’ and a tax-sale purchaser of land, and shall include the Corporation:
- “ ‘Parcel’ means any lot, block, or other area in which land is held or into which land is subdivided, or into which land is replotted pursuant to this Act:
- “ ‘Registered’ means registered or recorded in the books of the Land Registry:
- “ ‘Registrar’ means the Registrar of the Vancouver Land Registration District:
- “ ‘Undertaking’ means the preparation and carrying-out of a replotting scheme pursuant to this Act:
- “(2.) An official title shall mean and include the person performing the duties of that office during its vacancy or during the incapacity, absence, or suspension of the person holding such title.

*“Initiation of the Replotting.*

Undertaking the  
replotting.

“ 11. Upon having procured the approval of a scheme for replotting and resubdivision of a district by the owners of at least two-thirds in number of the parcels of land within the district (exclusive of unsold lands of the Crown and of the Corporation) constituting at least fifty per cent. of the assessed value of such land, and their written consent to the relocation and exchange of private properties according to such scheme, the Council may by resolution undertake

the completion and the putting into effect of such scheme without the consent of the other owners, pursuant to this Act.

"12. (1.) A certified copy of such resolution shall be filed in the Land Registry, whereupon the Registrar shall cause a note thereof by its filing number and series (which series may be the same as that which includes caveats) to be made upon the registers of titles of all parcels affected thereby, and thereupon the undertaking shall be deemed to be initiated. Copy of resolution for notation in Land Registry.

"(2.) If the undertaking is discontinued by resolution of the Council, the Registrar shall cancel such note upon the filing of a certified copy of such resolution in the Land Registry. Cancellation

"(3.) Such note shall be notice to all persons having any unregistered interest, right or claim in, to, or out of the affected parcels and to all persons subsequently dealing therewith that a scheme for the replotting thereof has been authorized, and such persons shall be bound by all proceedings under this Act taken before such notice and which may be taken thereafter. Effect of notation.

"(4.) No person having any right, title, interest, claim, or demand in, to, out of, or upon any land in the district, not duly registered prior to the initiation of the undertaking, shall be entitled to notice of any proceeding under this Act. No notice to unregistered persons

"(5.) Any allotment, decision, award, consent, or other proceeding under this Act shall be binding upon and enure to the benefit of the owner of the land thereby affected, his heirs, executors, administrators, successors, and assigns.

#### *" Principles of Replotting and Compensation.*

"13. In carrying out the undertaking the following principles of replotting and compensation shall apply :— Principles of replotting

"14. (1.) For the purpose of the undertaking all the parcels and highways and all other lands in the district at the initiation of the undertaking are hereinafter referred to as 'common mass' or 'mass.' A common mass.

"(2.) From this common mass is to be taken the land necessary for highways and other public grounds, and this shall take the place of and compensate the Crown and the Corporation for the surrender of the former highways and public grounds. Highways

"15. (1.) The remainder of the mass shall be divided into parcels for allotment to the owners in a suitable, fair, and equitable manner, and as far as possible so that the new parcels allotted to them shall be equal respectively to the values of their former parcels. Endeavour shall be made to allot to owners new parcels in approximately the same location as their former parcels and to return to their former owners, wherever advisable, improved parcels and parcels having any special value. Parcels with buildings on them are, wherever advisable, subject to the necessary adjustment of boundaries, to be returned to their former respective owners. Division into parcels

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- By agreement. “(2.) The allotment of new parcels in exchange for former parcels shall be carried out as far as possible by agreement with the respective owners.
- Failing agreement. “(3.) Failing agreement with an owner, there may be allotted to him a new parcel of equal value as far as possible to his former parcel, or compensation in money may be made to him in lieu of an allotment of land.
- Compensation. “(4.) Unavoidable differences of value between former parcels and new parcels may be equalized by granting money compensation.
- Allotment of remainder. “(5.) Any land not allotted as above provided may be allotted to any owner at an agreed price, the amount of which shall be paid to the Corporation. The whole of the land remaining unallotted shall be allotted to the Corporation.
- Mortgage for difference in value. “16. By agreement with an owner a new parcel may be allotted to him of greater value than his former parcel and a mortgage taken by the Corporation from the owner for payment of the difference in value with interest thereon as may be agreed.
- Corporation may acquire encumbrances. “17. The Corporation may, subject to making compensation therefor, acquire any encumbrance against a former parcel and hold it as an encumbrance against the new parcel allotted to the owner of the former parcel, and take all necessary proceedings for the collection of the amount due under and by virtue of such encumbrance and for the realization of the security secured thereby.
- Alterations in scheme. “18. Alterations may be made in the scheme before its completion, provided that they do not affect the owners who have consented as aforesaid or that the consent of such owners is obtained.
- Allotments to be binding. “19. Upon completion of the undertaking, the replotting scheme and the allotments of land pursuant thereto shall be absolutely binding to all intents and purposes upon all the owners in the district, subject only to the right of the non-consenting owners to complain as to the inadequacy of compensation proposed or the failure to propose compensation.
- Compensation for loss and damage. “20. Each non-consenting owner shall have the right to compensation in money:—
- “ (1.) For the loss of value of the former parcel in so far as adequate compensation is not afforded by the new parcel allotted:
- “ (2.) For the loss of or damage to buildings, improvements, and appurtenances upon or to the former parcel:
- “ (3.) For the loss of income from the use of buildings or the special condition or use of the former parcel caused by the undertaking.
- Determination of compensation. “21. (1.) In determining the amount of compensation:—
- “ (a.) A former parcel shall be valued at its actual market value at the time of the initiation of the undertaking, but any increase in the value thereof caused by the anticipation

or initiation of the undertaking shall not be taken into consideration; and

“(b.) A new parcel shall be valued at its market value upon the completion of the undertaking.

“(2.) No person shall be entitled to compensation for:—

“(a.) Any costs, expenses, loss, damage, or inconvenience incurred or sustained in investigating the replotting proceedings or in presenting any complaint or making any appeal, or caused by the initiation of or delay in or discontinuance of the undertaking:

“(b.) Any actual or anticipated loss or inconvenience of access to new parcels or of use of any municipal or public utility or service due to the new highways not being open for traffic:

“(c.) Any actual or anticipated loss, damage, or inconvenience suffered in common with all or by the major part of other owners:

“(d.) Any building or structure constructed, erected, placed, or altered or any improvement made to land subsequent to the initiation of the undertaking, or any actual or anticipated loss, damage, or expense incidental thereto or incidental to the removal of such building or structure:

“(e.) Any reduction in or loss of value due to reduction in area within the limits of a right to take land for highway purposes contained in any Crown grant or Statute.

*“Completion of the Undertaking.*

“22. Upon request of the Clerk or of any person duly authorized by the Council, and upon payment of such reasonable fees for the work involved as the Registrar may prescribe, the Registrar shall furnish him with a list of the registered owners of all parcels of land in the district at the time of the initiation of the undertaking, together with their addresses. Last of owners.

“23. Within three months after the initiation of the undertaking the Council shall by resolution either:— completion of the undertaking and registration at Land Registry

“(1.) Discontinue the undertaking; or

“(2.) Authorize the completion of the undertaking and the putting into effect of the scheme of replotting and the deposit in the Land Registry of a plan of the replotting made in compliance with section 80 of the ‘Land Registry Act,’ and a certificate giving the names and addresses of the owners to whom the new parcels have been allotted, with particulars of the allotments and of the owners’ respective former parcels, which plan and certificate shall be signed by the Clerk and sealed with the seal of the Corporation. Upon such deposit the undertaking shall, upon payment of the proper fees, be deemed to be completed, and the Registrar shall:—

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“(a.) Register the plan of the replotting of the district as the official subdivision plan of the lands therein and cancel all plans previously registered or parts thereof comprising such lands:

“(b.) Register the ownership in fee of and encumbrances against the new parcels in the names of the respective persons entitled thereto pursuant to the replotting scheme, or their legal representatives or successors in title, interest, claim, or demand, and thereupon the same shall be vested in them pursuant to the provisions of the ‘Land Registry Act’: Provided, however, that in the Registrar’s discretion a certificate of title may not be issued to an owner until he has surrendered the certificate of title to his former parcel:

“(c.) Cancel the registrations of ownerships in fee of and encumbrances against the former parcels, and thereupon all rights, titles, interests, claims, and demands whatsoever in, to, out of, or against the same shall be thereby wholly extinguished and all certificates of title thereto shall be thereby cancelled and annulled:

“(d.) Do all other things necessary to carry out the intention of the replotting scheme.

“Upon such deposit and payment:—

Rights of ownership  
and encumbrance  
transferred to new  
parcels.

“(aa.) Unless otherwise dealt with pursuant to the provisions of this Act, all rights, obligations, and incidents of ownership of the owner of a former parcel, or of his interest therein, and all public and private legal relationships whatsoever with respect to a former parcel shall to all intents and purposes be deemed to be transferred to and shall exist with respect to the new parcel allotted to the owner of such former parcel to the same extent and in the same manner as they existed with regard to the former parcel:

Taxes transferred  
to new parcels

“(bb.) The new parcels and the respective owners thereof shall be subject to and liable for all the municipal rates, taxes, assessments, and charges levied against their former respective parcels, and they shall be subject to all proceedings taken and to be taken for the collection of such municipal rates, taxes, assessments, and charges in any manner pursuant to the provisions of the ‘Municipal Act.’

“Hearing of Complaints.

Appointment of  
Commissioner.

“24. (1.) After the completion of the undertaking the Council shall apply to the Supreme Court *ex parte* by petition for the appointment of a Commissioner to hold a public hearing of and to

decide any complaints pursuant to sections 19 to 21, inclusive, and the Court shall thereupon appoint such Commissioner.

"(2.) No person shall be appointed or act as such Commissioner Disqualification.  
who is a member of the Council, or who is an owner within the district, or who is the husband or wife of such an owner.

"(3.) Such Commissioner shall, before entering upon the duties Oath of office.  
of his office, subscribe and take, before the Clerk, the following oath or affirmation:—

I, \_\_\_\_\_, do solemnly swear [or affirm] that I will truly and faithfully, and without fear favour, or partiality, execute the powers and trusts vested in me pursuant to the "Point Grey Improvement Act," according to the best of my knowledge and judgment, and that I am not disqualified from acting as a Commissioner under the said Act. So help me God.

"(4.) The Corporation shall pay the Commissioner for his services Remuneration  
remuneration at such rate as may be agreed upon between him and the Council, and in the event of any failure to so agree, such reasonable remuneration as shall be fixed by the Supreme Court on an ex parte application by the Corporation or the Commissioner.

"(5.) In the event of any Commissioner dying, resigning, refusing Inability to act  
to act, or being absent, or becoming incapable of acting, by reason of sickness or any disability or misconduct, the Supreme Court shall on ex parte application of the Corporation appoint some other person as Commissioner in his stead.

"(6.) In such event no proceedings or decisions had, taken, or Proceedings to continue  
arrived at by the Commissioner prior to such vacancy shall in any way be affected, but the same shall be valid and effectual and shall be and continue to be acted upon, notwithstanding that such vacancy shall have occurred and such other Commissioner shall have been appointed, and without any necessity for recommencing such proceedings or reconsidering any matter or thing which shall have arisen or been considered or decided before such vacancy occurred.

"25. The Commissioner shall appoint a time and place for the Time and place for hearing complaints  
hearing of complaints, which shall be at the Municipal Hall or other suitable place within the municipality, and shall not be less than forty days or more than ninety days after the giving of the notices hereinafter mentioned.

"26. (1.) Thereupon the Clerk shall give to each of the non- Notice to non-consenting owners  
consenting owners whose name appears on the list mentioned in section 22 a notice in writing stating that a replotting scheme has been put into effect, describing his former parcel, stating the allotment of new parcel made or compensation proposed to him, that the scheme and the allotments pursuant thereto are absolutely binding upon him to all intents and purposes, save only as to his right to complain against the inadequacy of compensation proposed or the failure to propose compensation, stating the time and place appointed by the Commissioner for hearing complaints, and that if he intends

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to complain he must give ten days' written notice thereof with the grounds of his complaint to the Clerk before such hearing.

Method of giving  
notice.

"(2.) The notice may be given:—

"(a.) By personal service on the person to whom it is directed;  
or

"(b.) By serving it by letter post, postage prepaid and registered, addressed to the person to whom it is directed at his address as shown upon the list furnished pursuant to section 22, or as shown on any instrument, paper, or record in the Land Registry relating to his ownership of or interest in the former parcel, or at his address as last known to the Assessor of the Corporation; or

"(c.) Pursuant to any direction which may be given by the Registrar for the substituted or other service of the notice by any method of service which under the 'Land Registry Act' the Registrar is authorized to direct in respect of notices required to be given under that Act.

Copy of plan may  
be sent with notice.

"(3.) The Clerk may, in his discretion, send with any one or more of such notices a copy of the plan of the replotting or of any portion thereof upon the same or a different scale.

Record of notices.

"(4.) The Clerk shall keep a record of all notices given under this section by showing opposite the names of the owners of the parcels in the district the names of the persons to whom notices were sent as to the respective parcels and the date and method of giving each notice.

Hearing by  
Commissioner.

"27. (1.) The Commissioner shall sit at the time and place appointed and the proceedings of and before him shall be public. He may receive any evidence which he thinks proper to admit and may take a view and may examine on oath any person interested and such witnesses as appear before him. The Commissioner may act upon, accept, or adopt such evidence as he may deem sufficient, and whether written or oral; and, while always having the right to insist upon evidence being given or submitted under oath by affidavit or by statutory declaration, the Commissioner need not require any evidence to be so given, nor shall the strict rules of evidence apply. He, or in his absence the Clerk, may adjourn the hearing from time to time, whether or not any of the persons interested are present at the time of the adjournment.

Witnesses.

"(2.) The Commissioner may, at the request of any complaining owner, or on his own initiative, summon in writing any person to attend at such hearing and give evidence and produce any documentary evidence. The Commissioner may order reasonable fees and expenses to be paid to any such witness summoned upon his own initiative, and the same shall be paid by the Corporation.

Penalty.

"(3.) Any person failing to respond to such summons shall be guilty of an offence, and shall be liable, upon summary conviction



thereof, to a penalty not exceeding the sum of one hundred dollars and costs.

"(4.) The Corporation may make complaint to the Commissioner on its own behalf or on behalf of any other person.

"28. (1.) The powers of the Commissioner (and the Supreme Court, on appeal) shall be confined to hearing and deciding complaints pursuant to sections 19 to 21, inclusive. Powers of Commissioner.

"(2.) The Commissioner shall cause to be kept a record of all complaints made to him and of his decisions thereon. Record of compliance.

"(3.) Upon the conclusion of his sittings the Commissioner shall report to the Council the complaints made to him and his decisions thereon. Commissioner's report

#### *" Appeals.*

"29. (1.) Any owner, if dissatisfied with the decision of the Commissioner upon such owner's complaint, may appeal therefrom to the Supreme Court by way of rehearing. Appeal to Supreme Court

"(2.) The person so appealing shall, within one week after the decision complained of, serve upon the Clerk a written notice of his intention to appeal, setting forth the ground of the appeal. Notice of appeal

"(3.) The appeal shall be made upon petition and five days' notice of the time for hearing the appeal shall be given to the Clerk. Notice of hearing

"(4.) The Corporation may appeal from any decision, in which case it shall give notice thereof as aforesaid to the person appealed against, and notice of the hearing shall be given such person, both of which notices may be given in any manner set forth in section 26. Appeal by Corporation

"(5.) The Court shall hear the appeal and the evidence adduced upon oath before it in a summary manner and may adjourn the hearing from time to time and defer judgment thereon at pleasure: Provided, however, that judgment shall be given within one month from the time limited for giving notice of appeal pursuant to subsection (2), otherwise the Commissioner's report shall stand. The decision of the Court shall be final and binding upon all persons concerned. Hearing of the appeal

"(6.) Any person making or opposing any such appeal shall pay his own costs and expenses thereof, and no costs as between party and party shall be awarded by the Court. Costs

#### *" Payment of Compensation.*

"30. The Corporation shall pay the amounts of compensation proposed by the scheme within three months after its completion, save where complaints have been made, in which cases the Corporation shall pay the compensation awarded within three months from the date of award by the Commissioner (or the Supreme Court, on appeal): Provided, however, that either of such periods may be extended by the Supreme Court upon application by the Corporation ex parte. Time for payment of compensation.

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"(1.) The compensation shall stand in the stead of the land in respect of which it was proposed or awarded, and shall be subject to the limitations and charges (if any) to which such land was subject.

Removal of  
buildings, etc.

"31. The Corporation may by its own servants, workmen, and contractors move any buildings, structures, and erections required to be moved pursuant to the provisions of the replotting scheme, and do any other work or thing upon private property in satisfaction of awards of compensation.

Payment may be  
made to Supreme  
Court.

"32. (1.) The Corporation may in any case it deems expedient pay into the District Registry of the Supreme Court of British Columbia, at Vancouver, the amount of any compensation awarded.

"(2.) Leave, or an order of the Court or a Judge, need not be obtained for such payment, but such payment shall be accompanied by a certificate of the Clerk, giving particulars of the person to whom and the land in respect of which such compensation was awarded.

"(3.) Upon such payment the District Registrar of the Court shall give the Clerk a receipt for such payment, attached to or endorsed upon a copy of the Clerk's certificate.

Method of raising  
the cost of the  
undertaking.

"33. The cost of the preparation and survey of the scheme shall be levied and collected upon and from the real property in the district in the manner set forth in section 9. The remainder of the cost of the completion of the undertaking as such completion is defined in section 23, and the compensation paid to the owners, including the cost and expenses incidental thereto, shall be paid by the Corporation out of its general revenue for the current year or the next succeeding year, or partly out of one and partly out of the other, and pending the collection of such revenue the Council may borrow from or make arrangements with any bank or person for temporary advances to meet such cost.

*" Miscellaneous.*

Former highways to  
be temporarily  
maintained.

"34. (1.) During the period of six months after the completion of the undertaking, in so far as the new highways are not constructed and open for traffic, the existing former highways and all public utility and other works thereon may be maintained; and during such period the Corporation or its licensees may remove such works; provided, however, that they do not interfere with or disturb the reasonable and necessary use and occupation of new parcels. No person shall have any right to compensation or any right of action for damages against the Corporation or against any other person by reason thereof.

Penalty for  
obstruction.

"(2.) Any person unreasonably obstructing the use of any former highway during said period shall be guilty of an offence and liable, upon summary conviction thereof, to a penalty not exceeding one hundred dollars.

"35. Save as to the right of complaint and appeal herein provided, no person shall at any time be entitled to make or proceed with any demand, claim, or right of action whatsoever against the Corporation, or any of its officials, servants, or workmen, or against the Commissioner, or against the Crown, for any loss or damage sustained or threatened by reason of the undertaking, or for or in respect of any matter whatsoever caused by any proceeding taken or thing done pursuant to this Part.

Limitation of claims.

"36. The Corporation may dispose of any parcels allotted to it in the manner provided in the 'Municipal Act' for disposing of lands acquired by tax-sale proceedings.

Disposal of parcels by Corporation.

"37. Save where otherwise specified, any proceeding under this Part to be taken by the Municipal Council or any act or thing incidental thereto may be taken or done by resolution of the Council.

Council may act by resolution

"38. Nothing herein contained shall be deemed to affect the power of the Corporation to assess and to levy rates and taxes upon the former parcels during the pendency of the replotting proceedings and prior to the completion of the undertaking.

Assessment and taxation during replotting proceedings

"39. Any dispute or question with regard to the construction of any provision of this Part, or the sufficiency and validity of any proceedings taken hereunder, or the manner in which any proceeding is to be taken may be referred to the Supreme Court for decision pursuant to the provisions of section 29.

Decision of disputes.

"40. The assent of the electors to the municipality shall not be necessary for any proceeding pursuant to this Part.

Assent of electors not required

"41. The Lieutenant Governor in Council may grant to the Corporation and the Corporation may accept any Crown land in the district or adjacent thereto in satisfaction of any taxes charged against any Crown lands in the municipality pursuant to section 246 of the 'Municipal Act.'

Grant of Crown lands to Corporation.

"42. This Part shall apply to Crown lands in the district held by purchasers from the Crown, and in such cases both the Crown and the purchasers shall be deemed to be owners within the meaning of this Part.

Crown lands held by purchasers

"43. Items 5, 6, and 9 of the Second Schedule to the 'Land Registry Act' shall not apply in respect of matters and proceedings mentioned in section 23 of this Act."

Land Registry fees

VICTORIA, B.C.

Printed by CHARLES F. BARNES, Printer to the King's Most Excellent Majesty  
1925