



1937

## c 370 School Sites Act

Ontario

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## CHAPTER 370.

## The School Sites Act.

## 1. In this Act.—

Interpreta-  
tion.

- (a) "Board" shall mean and include board of public school trustees, board of separate school trustees, board of education, high school board and advisory committee appointed under *The Vocational Education Act*;
- (b) "Judge" shall mean judge or junior or acting judge of the county or district court of the county or district in which lands to be acquired for a school site under this Act are situate;
- (c) "Owner" shall include a mortgagee, lessee, tenant and occupant and any person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
- (d) "School site" shall mean the land necessary for a school house, school garden, teacher's residence, caretaker's residence, drill hall, gymnasium, offices and playgrounds connected therewith, or other land required for school purposes or for the offices of a board. 1928, c. 54, s. 2.

"Board."  
Rev. Stat.,  
c. 369.

"Judge."

"Owner."

"School  
site."

2. A judge who is a member of a board shall not act in any matter under this Act in which the board is interested. 1928, c. 54, s. 3.

Judge not  
to act when  
member of  
board.

3. The powers and duties conferred and imposed upon a board by this Act shall be subject to the regulations made under *The Department of Education Act*. 1928, c. 54, s. 4.

Powers and  
duties to be  
subject to  
regulation.  
Rev. Stat.,  
c. 356.

4.—(1) In a township a school site shall not be selected nor shall an existing school site be enlarged so as to include land which comprises or forms part of or is situate within one hundred yards of an orchard, garden, pleasure-ground or dwelling-house without the consent of the owner of such orchard, garden, pleasure-ground or dwelling-house unless the judge, upon the application of the board and after notice to all persons interested, certifies in writing that other land suitable for the required purpose cannot be obtained.

Restrictions as to  
selection in  
townships.

Exception.

Compensation to owner of orchard, etc.

(2) Where the judge so certifies, the board shall pay to the owner of the orchard, garden, pleasure-ground or dwelling-house such sum as the judge, on the application of the owner, shall determine to be a fair compensation for having the school site located within such distance and the costs of the application shall be in the discretion of the judge. 1928, c. 54, s. 5 (1, 2).

Application of section limited.

(3) This section shall not apply to that part of a township which lies within five miles from the limits of a city having a population of over 100,000. 1928, c. 54, s. 5 (3); 1930, c. 63, s. 31.

Board may purchase or expropriate.

Rev. Stat., c. 357.

**5.**—(1) Subject to the provisions of section 4 and to the provisions of *The Public Schools Act*, as to the selection of a site by the board of a rural school section, every board may acquire by purchase or otherwise or may expropriate any land described in a resolution of the board declaring that the same is required for a school site or for the enlargement of a school site.

Acquiring land in township adjoining city.

(2) The board of education for a city may acquire by purchase or otherwise, or may expropriate land in a township for the purposes of a school site where such land adjoins a road forming a boundary road between the city and the township.

Land not to be exempt from taxation.

(3) Where a board of education expropriates land under the provisions of subsection 2, such land shall not be exempt from taxation by the township, but the corporation of the township and the board of education may agree upon a fixed annual sum to be paid as taxes upon the said land, or in case of disagreement, the amount shall be determined by the judge. 1928, c. 54, s. 6.

Acquiring land outside city for school sites.

Rev. Stat., c. 369.

**6.**—(1) The board of education of a city having a population of 50,000 or over or any advisory committee appointed by the board under *The Vocational Education Act*, may acquire by purchase or otherwise any land in an adjacent municipality which the board or such advisory committee deems it desirable to acquire, in view of the probable further extension of the limits of the city, so as to include such land, but no land shall be acquired under this section at a greater distance than one mile from the limits of the city, and all land so acquired, so long as it is held by the board or such advisory committee, shall be subject to municipal assessment and taxation in the municipality in which it is situate.

Expropriation not authorized.

(2) Nothing contained in subsection 1 shall be deemed to authorize the expropriation of land by the board or the advisory committee of such city in any other municipality.

(3) Where a board or an advisory committee has acquired land in any municipality under the provisions of subsection 1, and the same appears to the board or the advisory committee to have become undesirable for school purposes, the board or the advisory committee may sell, lease, or otherwise dispose of the same as it may deem expedient.

Power to dispose of sites so acquired.

(4) This section shall have effect and apply as to all lands so acquired by the board of education or the advisory committee of a city since the 1st day of January, 1910. 1928, c. 54, s. 7.

Section retroactive.

7. At any time after a board passes a resolution declaring that any land is required for a school site, or for the enlargement of a school site and that immediate possession thereof is required by it, the board, by leave of the judge and upon payment into the Supreme Court of a sum sufficient, in the opinion of the judge, to satisfy the compensation, may enter upon and take possession of the land, and if any resistance or forcible opposition is made to its so doing, the judge may issue his warrant to the sheriff of the county in which the land lies to put the board in possession, and to put down such resistance or opposition, which the sheriff taking with him sufficient assistance, shall accordingly do. 1928, c. 54, s. 8.

Order for immediate entry on land taken.

8.—(1) Every corporation, tenant in tail or for life, guardian, executor, administrator and every trustee (not only for and on behalf of himself, his heirs and successors, but also for and on behalf of those he or they may represent, whether married women, infants, unborn issue, mentally incompetent persons or mentally defective persons), or other person, seized, possessed of or interested in any land may contract for, sell and convey all or part thereof or any interest therein to a board for a school site or for an enlargement of or addition to a school site, and any contract, agreement, sale, conveyance or assurance so made shall be valid and effectual to all intents and purposes.

Who may sell and convey to board.

(2) Where there is no person who under the provisions of subsection 1 may contract, sell or convey, the Supreme Court may on the application of the board appoint some person to act for and on behalf of the owner for the purposes mentioned in subsection 1 and in any proceedings which may be taken under this Act, and may give proper direction concerning the disposition of the purchase money. 1928, c. 54, s. 9.

Where there is no person who can convey.

9.—(1) Where the owner and the board are unable to agree on the compensation to be paid to the owner, the amount to be paid shall be fixed and determined by the judge upon oral evi-

Determining amount of compensation—where no agreement.

dence at such time and place as he may upon notice to all concerned appoint.

Hearing. (2) The hearing shall be conducted in the same manner as nearly as may be as in the case of a trial before the judge in an action in the county court and a subpoena may issue from the county court to command the attendance of witnesses.

Duties of sheriff and clerk. (3) The sheriff and the clerk of the county court shall perform the same duties and shall be entitled to the same fees as in the case of a trial in the county court.

Appeal. (4) An appeal shall lie from the decision of the judge to the Court of Appeal. 1928, c. 54, s. 10.

Interest payable to owner. **10.** The judge shall determine what interest, if any, shall be paid to the owner. 1928, c. 54, s. 11.

Judge may order notice to be published and mailed. **11.**—(1) On filing with the county judge the certificate of an Ontario land surveyor that he is not interested in the matter, that he knows the land, describing it, and that some certain sum named in the certificate is, in his opinion, a fair compensation for the land, the judge, if satisfied by affidavit or other evidence, that diligent inquiry has been made and that the owner is unknown or cannot be found, may order that a notice be inserted for such time as he may deem proper in some newspaper published in the county or district and may order that notice be also sent to any person by mail or served upon him in such manner as the judge may direct.

Contents of notice. (2) The notice shall contain a short description of the land and a statement of the readiness of the board to pay the sum so certified, shall give the name of the judge who is to determine the compensation under this Act and shall state the time within which the offer is to be accepted, and such other particulars as the judge may direct.

Determining compensation. (3) If within the time stated the owner does not notify the board of his acceptance of the sum offered, the judge may proceed *ex parte* on oral evidence to determine the compensation to be paid. 1928, c. 54, s. 12.

Judge may determine claims of encumbrancer, etc. **12.** The judge may hear and determine all claims or rights of encumbrancers, lessees, tenants, occupants or other persons as well as those of the owner in respect to the land, provided that in such case the claimant or other person has first received ten clear days' notice of the intention to determine his claim or right. 1928, c. 54, s. 13.

**13.** Where part only of the lot or parcel of land of the owner is required, the judge shall include in the compensation the amount which will, in his opinion, compensate the owner for any damage directly resulting from severance. 1928, c. 54, s. 14.

Damages caused by severance.

**14.**—(1) A notice of intention to acquire land may be desisted from by the board at any time within twenty-one days after the amount has been determined by the judge by giving written notice to the owner and filing the same with the clerk of the county court, but the board shall in that case pay the whole cost of the proceedings and all damages sustained by the owner in consequence of the taking and abandonment and such costs shall be ascertained in a summary way by the judge.

Right of desistment.

(2) The right of desistment shall not be exercised more than once. 1928, c. 54, s. 15.

Not to be exercised more than once.

**15.** The costs of the proceedings shall be in the discretion of the judge, who may direct to and by whom and in what manner such costs or any part thereof shall be paid, and he may award any costs to be paid as between solicitor and client. 1928, c. 54, s. 16.

Cost of arbitration.

**16.** If the amount determined by the judge and any costs awarded have been paid in the manner and to the person directed by the judge, he may make a vesting order vesting the land taken in the board and such order may be registered and shall confer upon the board a good title to the land taken. 1928, c. 54, s. 17.

Vesting order.

**17.**—(1) Every sum to be paid as compensation shall be paid within thirty days after the determination of the amount to be paid.

Compensation to be paid within thirty days.

(2) Where the person entitled thereto is absent or where for any other reason payment of such sum cannot be made pursuant to the award, or if the title to the land or any interest therein or the right to any part of the compensation is in doubt, or if for any other reason the board deems it advisable, the board may pay the sum awarded or any part thereof into the Supreme Court with six months' interest thereon. 1928, c. 54, s. 18.

Payment into court.

**18.** The compensation for any land which is taken without the consent of the owner shall stand in the stead of the land, and any claim to or incumbrance upon such land, or any part thereof, shall, as against the board, be converted into a claim to the compensation or to a like proportion thereof and it shall

Compensation awarded to stand in the stead of land taken.

be responsible accordingly, whenever it has paid the compensation, or any part thereof, to a person not entitled to receive the same, saving always its recourse against such person. 1928, c. 54, s. 19.

Compensation to be determined by official arbitrator.

Rev. Stat., c. 280.

**19.** In the case of a municipality for which an official arbitrator has been appointed under *The Municipal Arbitrations Act*, the compensation to be paid to the owner shall be determined by the award of the official arbitrator instead of by the judge as hereinbefore provided, and the provisions of that Act shall *mutatis mutandis* apply. 1928, c. 54, s. 20.

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