1980

c 91 The Townships of Cumberland and Gloucester Act, 1980

Ontario
CHAPTER 91

An Act respecting the Township of Cumberland and the Township of Gloucester

Assented to May 20th, 1980

WHEREAS The Corporation of the Township of Cumberland and The Corporation of the Township of Gloucester, herein called Cumberland Township and Gloucester Township respectively, hereby represent that certain maintenance work to the drainage works known as The Bear River Municipal Drain were undertaken and completed during the year 1976 in the townships of Cumberland, Gloucester, Osgoode and Russell; that pursuant to The Drainage Act, being chapter 136 of the Revised Statutes of Ontario, 1970, an engineer's report was requested before such maintenance work was commenced; that the engineer's report, dated the 15th day of August, 1974, was presented to the council of Cumberland Township and was adopted by Provisional By-law No. 2091 of Cumberland Township; that copies of the said report are available for inspection in the office of the clerk of Cumberland Township and in the office of the clerk of Gloucester Township; that courts of revision were held in the townships of Cumberland, Osgoode and Russell in relation to the assessment of lands within such Townships as set out in the engineer's report; that although a copy of the Provisional By-law and a notice of the sitting of the court of revision in the Township of Cumberland was sent by prepaid mail to the clerk of Gloucester Township; the copy of the Provisional By-law and notice were not received by him; that as a result of not receiving the copy of the Provisional By-law and a notice of the sitting of the court of revision in the Township of Cumberland, the council of Gloucester Township did not appoint or hold a court of revision in relation to the assessment of lands and roads within its jurisdiction; that Gloucester Township has not paid over to Cumberland Township Gloucester Township's share of the cost of the maintenance work; that the council of Gloucester Township has not passed a by-law imposing upon the lands within its jurisdiction assessed for such maintenance works, the assessment with which it is chargeable as required under The Drainage Act; and whereas the applicants hereby apply for special legislation authorizing Gloucester Township to pay over to Cumberland Township $69,461.41, being Gloucester Township's portion of the cost of such maintenance work, to appoint and hold a court of revision and to pass a by-law assessing
those lands within the jurisdiction of Gloucester Township which benefit from the said maintenance work, and to deem the said maintenance works to have been done in accordance with the provisions of The Drainage Act, being chapter 136 of the Revised Statutes of Ontario, 1970; and whereas it is expedient to grant the application;

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

1. Notwithstanding any general or special Act, the council of Gloucester Township is authorized and required to pay over to the treasurer of Cumberland Township the sum of $69,461.41, being Gloucester Township's share of the costs of the maintenance work done to the drainage works known as The Bear River Municipal Drain, in accordance with subsection 1 of section 11, notwithstanding the fact that the said maintenance work was undertaken and completed during the year 1976, pursuant to By-law 2091 of Cumberland Township under a report prepared by McNeely, Lecompte & Associates Ltd., dated the 15th day of August, 1974.

2.—(1) The council of Gloucester Township is hereby authorized to pass a by-law,

(a) to authorize the borrowing of a sum not exceeding $69,461.41, without obtaining the approval of the Ontario Municipal Board, payable in not more than ten years for the purpose of paying Gloucester Township's portion of the cost of the maintenance work referred to in section 1; and

(b) to provide for the assessment, levy and collection of the special rates as set out in the report referred to in section 1, in so far as it relates to the assessment of lands and roads under the jurisdiction of Gloucester Township.

(2) The by-law enacted pursuant to subsection 1 shall be in Form 1 and when the by-law has been given two readings by the council of Gloucester Township, the report referred to in section 1 in so far as it relates to the assessment of the lands and roads under the jurisdiction of Gloucester Township shall be deemed to be adopted and the by-law shall be known as a provisional by-law.

3. Sections 55, 56, 57, 58, 59 and 60 of The Ontario Municipal Board Act apply in respect of a by-law passed under section 2.

4. For the purposes of every Act, the Ontario Municipal Board shall be deemed to have issued an order under section 64 of The
Ontario Municipal Board Act authorizing the maintenance work mentioned in section 1 and authorizing Gloucester Township to borrow the money mentioned in clause a of subsection 1 of section 2.

5. The clerk of Gloucester Township shall, within thirty days after the adoption of the report, cause a copy of the provisional by-law, a copy of the report referred to in section 1 and a copy of the notice of the sittings of the court of revision to be sent by prepaid mail to each owner, as shown by the last revised assessment roll to be the owner of lands within the municipality assessed for the drainage works and to each person entitled to notice under subsection 4 of section 24 of The Drainage Act, being chapter 136 of the Revised Statutes of Ontario, 1970.

6.—(1) The court of revision shall consist of three or five members appointed by the council of Gloucester Township and such members other than members of the council may be paid such remuneration and expenses as council may by by-law provide.

(2) Every member of the court of revision shall be a person eligible to be elected a member of the council or shall be a member of the council.

(3) A majority of the members of the court of revision constitutes a quorum and a quorum of the court is sufficient to exercise all of the jurisdiction and powers of the court.

7.—(1) Any owner of land, or, where roads in Gloucester Township are assessed, any ratepayer, who complains that his or any other land or road has been assessed too high or too low or any land or road that should have been assessed has not been assessed, or that due consideration has not been given or allowance made as to type or use of land, may personally or by his agent give notice in writing to the clerk of Gloucester Township that he considers himself aggrieved for any or all such causes.

(2) The trial of complaints shall be had in the first instance by and before the court of revision of Gloucester Township, and the first sitting of the court shall be held on a day not earlier than twenty nor later than thirty days from the date of completing the mailing of the copies of the provisional by-law.

(3) Every notice of appeal to the court of revision shall be given to the clerk of Gloucester Township at least ten days before the first sitting of the court, but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as appears just.
(4) Except as otherwise provided in this Act, the provisions of The Assessment Act as to the powers of and trial of complaints by the Assessment Review Court apply with necessary modifications to trials by the court of revision under this Act, except that where the assessment commissioner or regional registrar is referred to, such reference shall be deemed to refer to the clerk of the municipality.

8. When the ground of complaint is that lands or roads are assessed too high and the evidence adduced satisfies the court of revision or judge that the assessments on such lands or roads should be reduced and there is no evidence to indicate that the amount of such reduction should be levied against lands or roads whose owners are parties to appeals then pending before the court of revision or judge, the court or judge shall adjourn the hearing of the appeal for a time sufficient to enable the clerk to notify by prepaid mail such persons as the appellant may specify who are shown by the last revised assessment roll to be owners of land affected of the date to which the hearing is adjourned, and the clerk shall so notify all such persons, and at such adjourned hearing the court or judge shall dispose of the matter of appeal and, where appropriate, redistribute the assessments in such manner as appears just.

9.—(1) An appeal from the court of revision lies to the judge, not only against a decision of the court of revision, but also against the omission, neglect or refusal of the court of revision to hear or decide an appeal.

(2) The provisions of The Assessment Act as to appeals to the judge under section 55 of that Act apply with necessary modifications to an appeal under subsection 1, except that the notice of appeal shall be given to the clerk of Gloucester Township in lieu of the assessment commissioner and the clerk upon receipt of such notice shall thereupon perform the duties of the regional registrar.

(3) At the court so held, the judge shall hear the appeal and may adjourn the hearing from time to time, but shall give his decision not later than thirty days after the hearing and the decision of the judge is final.

10. Any change in an assessment made by the court of revision or by the judge shall be given effect to by the clerk of Gloucester Township altering the assessments and other parts of the schedule to comply therewith and sending notice thereof to the owners affected, and the provisional by-law shall, before the passing thereof, be amended to carry out any changes so made by the court of revision or by the judge.

11.—(1) The council of Gloucester Township shall raise and pay over to the treasurer of Cumberland Township $69,461.41,
immediately after the time fixed by subsection 2 for the passing of the by-law.

(2) The council of Gloucester Township shall, after the time for appealing has expired and there are no appeals or after all appeals have been decided, immediately pass the provisional by-law, imposing upon the land assessed for the maintenance of the drainage works, the assessment with which it is chargeable, and the amounts so imposed are payable in such instalments as the council may prescribe.

(3) The council of Gloucester Township may provide that persons whose lands are assessed may commute for a payment in cash the assessments imposed thereon and may prescribe the terms and conditions thereof.

(4) Where the assessment against any parcel of land is $25 or less, the council of Gloucester Township may provide that the assessment shall be paid out of the general funds of the township or that the assessment shall be paid in the first year in which the assessment is imposed upon the land assessed.

(5) The assessments and rates imposed under this Act shall be deemed to be taxes, and the provisions of The Municipal Act as to the collection and recovery of taxes, and the proceedings that may be taken in default of payment thereof, apply with necessary modifications.

(6) Notwithstanding the provisions of any general or special Act, land exempt from taxation is for all purposes subject to the provisions of this Act and shall be specially assessed, and the special assessments so imposed that fall due while such land remains exempt from taxation shall be paid by Gloucester Township, provided that such special assessments imposed upon land on which a church or place of worship is erected and that is used in connection therewith, land of a university, college or seminary of learning, whether vested in a trustee or otherwise, and land of a school board within the meaning of The Education Act, 1974, shall be paid by the owners of the land.

12. The council of Gloucester Township may by by-law provide for the payment to the clerk of the municipality of reasonable fees or other remuneration for services performed by him in carrying out the provisions of this Act.

13. If no notice of intention to make application to quash a by-law is served upon the clerk of Cumberland Township within ten days after the passing of the by-law, or where a notice of intention has been given, if an application to quash is not made to the referee within three months after the passing of the by-law, the
by-law, or so much thereof as is not the subject of or is not quashed upon any such application, is valid and binding according to its terms, so far as it ordains, prescribes or directs anything within the competence of the council.


(2) The provisions of the said Act, except sections 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44 apply with necessary modifications to this Act.

15. The maintenance work to The Bear River Municipal Drain undertaken by By-law 2091 of The Corporation of the Township of Cumberland pursuant to the report referred to in section 1 shall for all purposes be deemed to be a drainage work constructed under a by-law passed under *The Drainage Act*, being chapter 136 of the Revised Statutes of Ontario, 1970.

16. This Act comes into force on the day it receives Royal Assent.

17. The short title of this Act is *The Townships of Cumberland and Gloucester Act, 1980.*
FORM 1

(Section 2)

FORM OF BY-LAW

A By-law to provide for the costs of maintenance of a drainage works in the Township of Gloucester, in the Regional Municipality of Ottawa-Carleton, known as The Bear River Municipal Drain and for borrowing on the credit of the Regional Municipality the sum of $........ for payment of Gloucester Township's portion of the costs of the drainage works:

Whereas certain maintenance work to the drainage works known as The Bear River Municipal Drain was undertaken and completed during the year 1976 pursuant to a Report prepared by McNeely, Lecompte & Associates Ltd., dated the 15th day of August, 1974;

And whereas the Corporation of the Township of Gloucester is required to pay over to the Treasurer of the Corporation of the Township of Cumberland the sum of $69,481.41, being Gloucester Township's share of the costs of the maintenance work done to the drainage works known as The Bear River Municipal Drain pursuant to The Townships of Cumberland and Gloucester Act, 1980;

Therefore, the council of the Township of Gloucester, pursuant to The Townships of Cumberland and Gloucester Act, 1980, enacts as follows:

1. The Corporation of the Township of Gloucester shall apply to The Regional Municipality of Ottawa-Carleton to borrow on the credit of the Regional Municipality the sum of $........ being the funds necessary for repaying Cumberland Township for Gloucester Township's share of the maintenance work done to the said drainage works, not otherwise provided for; provided that such sum shall be reduced by the amount of commuted payments with respect to lands and roads assessed, and may request The Regional Municipality of Ottawa-Carleton to issue debentures of the Corporation to that amount in sums of not less than $50.00 each and payable within........ years from the date of such debentures, with interest at the rate of ........ per cent per annum:

   (Insert the manner of payment annually and whether with or without coupons, and, if the latter, until the last lines of this paragraph.)

   such debentures to be payable at ............... and to have attached to them coupons for the payment of interest.

2. For paying the sum of ($410), the amount charged against such lands and roads for benefit, and the sum of ($108), the amount charged against such lands and roads for outer liability, and the sum of ($345), the amount charged against such lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality and for covering interest thereon for ........ years, at the rate of ........ per cent per annum, the following total special rates over and above all other rates shall be assessed, levied, and collected in the same manner and at the same time as other taxes are levied and collected upon and from the aforementioned parcels of land and parts of parcels and roads, and the amount of the total special rates and interest each parcel or part of parcel respectively shall be divided into ........ equal parts, and one such part shall be assessed, levied and collected at aforesaid, in each year, for ........ years after the passing of this By-law, during which the debentures have to run, provided that no greater amount shall be levied than is required after taking into account and crediting the amount of monies paid under a by-law passed under subsection 4 of section 11 of The Townships of Cumberland and Gloucester Act, 1980, and commuted payments with respect to lands and roads assessed.
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<th>Benefit assessment</th>
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<th>Total for benefit</th>
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3. For paying the sum of (S100), the amount assessed against such roads and lands of the Regional Municipality, and for covering interest thereon for . . . . years at the rate of . . . . per cent per annum, a special rate, sufficient to produce the required yearly amount therefor, shall, over and above all other rates, be levied and collected in the same manner and at the same time as other taxes are levied and collected upon and from the whole rateable property in the Township of Gloucester in each year for . . . . years, after the passing of this By-law, during which the debentures have to run.

4. This By-law comes into force on the passing thereof, and may be cited as the ".......................... By-law".

FIRST READING

SECOND READING

THIRD READING

Enacted this . . . . day of .........., 19 . . . .

(Clerk)