1978

c 153 The City of Windsor Act, 1978 (No. 2)

Ontario
CHAPTER 153

An Act respecting the City of Windsor

Assented to December 15th, 1978

WHEREAS The Corporation of the City of Windsor, herein called the Corporation, hereby represents that by an agreement dated the 21st day of February, 1921, a true copy of which is set out as Schedule 1 hereto, the parties to the agreement agreed to convey to the Town of Walkerville certain lands; that pursuant to the agreement a deed, dated May, 1921, a true copy of which is set out as Schedule 2 hereto, was registered in the Registry Office for the Registry Division of the County of Essex on the 9th day of September, 1921 as number 6193 for the Town of Walkerville, conveying the lands described therein to The Corporation of the Town of Walkerville, as Grantee; that the deed contained a covenant which among other things provided that:

... within five years from the date hereof, the Grantee will, at its own expense, remodel the residence and other buildings on the said lands, so far as remodelling may be necessary for the public purposes for which the same may be used, said remodelling to be in accordance with plans to be submitted and approved by the said Harrington E. Walker, Hiram H. Walker and F. Caldwell Walker, and the survivors or survivor; and that a suitable portion of the said residence, after such remodelling, shall be set apart and used for public library purposes, the said public library to be known as "Willistead Library";

that pursuant to the covenant a portion of the residence referred to in the covenant has been and is being used as a public library, known as the Willistead Library; that the assets and liabilities of the Town of Walkerville vested in the Corporation under The City of Windsor (Amalgamation) Act, 1935, being chapter 74; that, in light of the declining public use of the Willistead Library and the need to make further use of the building as a community, cultural and recreational centre, it is desirable that the clause in the covenant that requires a portion of the residence located on the lands to be reserved for public library purposes be declared null and void and no longer binding on the Corporation; and whereas the applicant hereby applies for
special legislation for such purpose; 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 the agreement set out as Schedule 1 hereto, the clause in the covenant in the deed set out as Schedule 2 hereto that reads:

and that a suitable portion of the said residence after such re-modelling shall be set apart and used for public library purposes, the said public library to be known as "Willistead Library";

is hereby declared null and void and is no longer binding on the Corporation.

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

3. The short title of this Act is The City of Windsor Act, 1978 (No. 2).

SCHEDULE 1

THIS AGREEMENT, made this 21st day of February, A.D. 1921, by and between Harrington E. Walker, Hiram H. Walker and F. Caldwell Walker, individually and as Executors and Trustees of the Estate of J. Harrington Walker, Deceased, Margaret T. Walker, widow of the said J. Harrington Walker, Deceased, Mary Margaret Walker Small and Elizabeth T. Walker, children and residuary legatees and devisees of said J. Harrington Walker, deceased, May Walker, widow of Franklin H. Walker, deceased, and Detroit Trust Company, as Executors and Trustee of the Estate of said Franklin H. Walker, deceased, hereinafter called first parties, Mary Griffin Walker, widow of Edward Chandler Walker, deceased, hereinafter called second party, and National Trust Company, Limited, as Trustee of the Estate of said Edward Chandler Walker, deceased, hereinafter called third party, and The Corporation of the Town of Walkerville, hereinafter called the fourth party, WITNESSETH:

WHEREAS said second party under and by virtue of the terms of the Last Will and Testament of said Edward Chandler Walker, deceased, was given the right during her natural life, to occupy and use personally the premises known as "Willistead" in the Town of Walkerville, Ontario, including the lands surrounding and connected therewith, and the garage and other buildings thereon, the said lands consisting of about fifteen and one-half acres, and the title to the remainder in said premises was by said Will devised to said third party in trust for said Franklin H. Walker and J. Harrington Walker; and

WHEREAS the said third party was required under the said Will of the said Edward Chandler Walker during the use and occupation of the said premises by the second party to make such expenditures as might be required for the maintenance and upkeep of the said premises and to pay the taxes and insurance charges thereon and upon the furniture and effects therein contained; and
WHEREAS, by a certain agreement dated July 19th, 1915, and made between the said Franklin H. Walker and James Harrington Walker (both since deceased) of the first part, the said Mary Griffin Walker, of the second part, the National Trust Company, Limited, of the third part, it was provided that in lieu of the liability of the said National Trust Company, Limited, for the expenditures to be made under the provisions of the said Will, the said Company (the third party hereto) should pay to the said Mary Griffin Walker (the second party hereto) the sum of Twenty-five Thousand Dollars per annum, and that the said second party hereto should assume the responsibility for such maintenance and upkeep, taxes and insurance, and that the National Trust Company, Limited, should be relieved from any and all liability in respect thereof; and

WHEREAS, the first and second parties hereto desire to convey said premises to the Corporation of the Town of Walkerville, Ontario, to be used for certain public purposes hereinafter mentioned; Now Therefore, the parties hereto, each in consideration of the performance by the other or others of the premises to be by him, her, it or them performed, do hereby mutually agree as follows:

(1) Said first, second and third parties agree to join in a proper conveyance of said premises known as "Willistead" to said fourth party, upon and subject to the terms and conditions hereinafter set forth.

(2) It is further understood and agreed that said conveyance shall provide that the grantee shall keep and maintain said property perpetually for public purposes, the said property to be known as "Willistead Park"; that due and proper care shall be taken by said grantee of the trees and shrubs thereon; that the fence around said premises shall be left standing and shall be properly kept and maintained during the period of its natural life or such other period as the necessities of said grantee will permit; that the residence and other buildings on said property, during the first five years after the date of said conveyance, shall be remodelled as to the interior thereof so far as the same may be found necessary for the public purposes for which the same are to be used, at the expense of the grantee, in accordance with plans to be approved by the first parties, and that a portion of said residence after such remodelling shall be used for public library purposes, the said public library to be known as "Willistead Library" (provided, however, that the exterior of said residence shall not be altered so as to mar or injure in any way the general architectural design of said building); that no additional structure shall be erected at any time or substantial structure alterations made at any time in said buildings or premises without the approval of the Ontario Association of Architects that nothing in said conveyance shall be construed to prevent the use of a portion of the buildings on said premises for lecture purposes and meetings of any kind regarding matters of public interest.

(3) It is further understood and agreed that a sum at the rate of Twenty Thousand Dollars ($20,000.) per year shall be paid by said third party to said second party during her natural life in equal quarterly or monthly instalments each year, as said second party may elect, this payment of Twenty Thousand Dollars ($20,000.) per year to be in lieu of the Twenty-five Thousand Dollar payment provided for in Section two (2) of said agreement dated July 19th, 1915, hereinafore mentioned. Said first parties, as the representatives of the residuary legatees under the said will of Edward Chandler Walker, deceased, hereby authorize and direct said third party to pay to said second party the said sum at the rate of Twenty Thousand Dollars ($20,000.) per year, and to charge the same against the residue of the testator's estate to which said first parties are or may become entitled.
It is further understood and agreed that said second and third parties, upon the execution and delivery of the said conveyance to the said fourth party which shall be executed and delivered not later than the first day of August, 1921, shall be released and forever discharged from any condition imposed by the said Will of Edward Chandler Walker, deceased, or the agreement of July 19th, 1915, requiring said second or third parties to make any expenditures upon or on behalf of said "Willistead" premises.

Said second party agrees to accept the payment of the sum of Twenty Thousand Dollars ($20,000) in lieu of the sum of Twenty-five Thousand Dollars ($25,000) provided for by the said agreement of July 19th, 1915, and hereby expressly waives her rights as from the said first day of August, 1921, to the payment of Five Thousand Dollars ($5,000) per annum being the difference between the said sum of Twenty Thousand Dollars ($20,000) per annum provided for by this agreement and the sum of Twenty-five Thousand Dollars ($25,000) per annum provided for by Section Two (2) of said agreement dated July 19th, 1915, and also hereby expressly waives and surrenders her right, during her natural life as from the said first day of August, 1921, to occupy and use personally the homestead and premises known as "Willistead" in the Town of Walkerville, Ontario, including the lands surrounding and connected therewith, and the garage and other buildings thereon.

Notwithstanding anything herein contained the said agreement of July 19th, 1915, shall be deemed to be and remain in full force and effect except insofar as the same have been expressly varied by these presents.

It is further understood and agreed that any inscription upon said premises, designating the donors thereof, shall be in such wording as shall be required by first parties hereto.

The fourth party agrees to accept a conveyance of the premises above described upon the terms and conditions herein set forth, and executes these presents in evidence of its assent thereto.

In witness whereof, the parties hereto have hereunto set their hands and seals the day and year first above mentioned.

[Executed by the Parties to the Agreement]

SCHEDULE 2

This indenture made (in triplicate) the day of May, one thousand nine hundred and twenty-one, in pursuance of The Short Forms of Conveyance Act.

Between:

Harrington E. Walker, Hiram H. Walker and F. Caldwell Walker, in their personal capacities and as executors and trustees of the estate of J. Harrington Walker, deceased, Margaret T. Walker, widow of said J. Harrington Walker, Mary Margaret Walker Small and Elizabeth T. Walker, children and residuary legatees and devisees of said J. Harrington Walker, National Trust Company Limited, as administrator in Ontario of the estate of Franklin H. Walker, deceased, and as executor and trustee of the estate of Edward Chandler Walker, deceased, May Walker, widow of the
said Franklin H. Walker, and Mary Emma Griffin Walker, widow of the
said Edward Chandler Walker, hereinafter called the "Grantors"

OF THE ONE PART;

— and —

The Corporation of the Town of Walkerville, hereinafter called the
"Grantee"

OF THE OTHER PART;

WITNESSETH:

That in pursuance of a certain agreement entered into by the parties
hereunto, and bearing date February, 1921 and in consideration of the undertakings and agreements therein and herein contained on the part of the Grantee to be observed and performed, the Grantors, according to their several estates and interests, do hereby grant and release unto the said Grantee in fee simple all and singular that certain parcel or tract of land and premises situate lying and being in the Town of Walkerville, in the Province of Ontario, known as "Willistead" being composed of all that part of lots numbers ninety-four (94) and ninety-five (95) (McNiff’s Survey) bounded on the East by Devonshire Road, on the North by Niagara Street, on the South by Huron Street, and on the West by Victoria Road, the said lands being more particularly described in two certain deeds of conveyance made by Charles Louis Chilver and the Walkerville Land & Building Company Limited to the late Edward Chandler Walker, registered in the Registry Office for the County of Essex as numbers 701 and 1049 for the Town of Walkerville;

To HAVE AND TO HOLD for certain public purposes, subject, nevertheless, to the reservations, limitations, provisos and conditions expressed in the original Grant thereof from the Crown and to the said undertakings and agreements;

And the Grantee hereby covenants and agrees with the Grantors, individually and collectively, that the Grantee will keep and maintain the said lands perpetually for public purposes, the same to be known as "Willistead Park"; that due and proper care will be taken of the trees and shrubs therein; that the fence around the said lands will be properly kept and maintained during the period of its natural life, or such other period as the necessities of the Grantee will permit, that within five years from the date hereof, the Grantee will, at its own expense, remodel the residence and other buildings on the said lands, so far as remodelling may be necessary for the public purposes for which the same may be used, said remodelling to be in accordance with plans to be submitted and approved by the said Harrington E. Walker, Hiram H. Walker and F. Caldwell Walker and the survivors or survivor; and that a suitable portion of the said residence, after such remodelling, shall be set apart and used for public library purposes, the said public library to be known as "Willistead Library";

And that it will not alter or permit to be altered, the exterior of the said residence so as to mar or injure in any way, the general architectural design thereof; and that it will not make or permit any substantial structural alteration in any of the said buildings or premises, without the approval first had and obtained of the Ontario Association of Architects, and that it will not erect, or permit to be erected, any building or structure on the said lands without the approval first had and obtained of the said Association.
Provided that nothing in these presents contained, shall be construed to prevent the use of a portion of the buildings on said premises for lecture purposes and meetings of any kind regarding matters of public interest.

In Witness Whereof the parties hereto have hereunto set their hands and seals.

[Executed by the Parties to the Agreement]