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Since last October 30, it has become more difficult for non-residents to acquire agriculturally zoned lands suitable for the cultivation of the soil or the raising of livestock in Quebec

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THE 1979 STATUTE

It is well known that, under the legal regime for the protection of agricultural lands, the acquisition of agriculturally zoned lands with a surface area of four hectares or more by a person not residing in Quebec is subject to the authorization of the Commission de protection des terres agricoles. This is the object of the *Act respecting the acquisition of farm land by non-residents* (CQLR chapter A-4.1) (the "*Act*"), which has been in force since December 21, 1979.

This Act provides that the Commission must authorize the acquisition of land by a non-resident if it finds that the land in question is not suitable for the cultivation of the soil or raising of livestock. It must also do so if the person making the application declares that they intend to settle in Quebec. In that case, the authorization is conditional upon proof by the purchaser that it has become a resident and, once such proof is submitted, the acquisition of the land in question becomes irrevocable. In all other cases, the Commission will consider the application for authorization on the basis of the biophysical conditions of the soil and of the environment, the economic consequences arising from the possible uses of the land for agricultural purposes, the effect of granting the application on the preservation of the agricultural soil and on the homogeneity of the farming community and farming operations.

CHANGES

Bill 46, which was assented to and came into force last October 30,[1] substantially reduces the access to agricultural zones by non-resident purchasers. The amendments it makes to the Act have

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three main restrictive effects: they increase the stringency of the conditions required to qualify as a resident of Quebec; they add an annual limit on the area of the lands open to acquisition by non-residents; and they impose additional criteria which the Commission must take into account when considering an application for authorization.

THE QUEBEC RESIDENCY CONDITIONS

Since 1979, a natural person[2] was considered to reside in Quebec if the person had stayed in Quebec for at least 366 days (12 months and one day) during the 24 months immediately preceding the date of the acquisition of the farm land, or following the acquisition date, in the case of a non-resident who intended to settle in Quebec.

Henceforth, to be a resident of Quebec, a natural person must be a Canadian Citizen or permanent resident under the *Immigration and Refugee Protection Act* (S.C. 2001, c. 27) and must have lived in Quebec for at least 1,095 days (36 months) during the 48 months immediately preceding the date of acquisition or, in the case of a person who intends to settle in Quebec, following the date of the conditional acquisition authorized by the Commission, as the case may be.

By requiring citizenship or permanent residency and by increasing the duration of the stay in Quebec from 12 out of 24 months to 36 out of 48 months, the legislature aims to reserve access to good farm land to true residents of Quebec.

LIMIT OF 1,000 HECTARES PER YEAR

Furthermore, a new provision has been added to the Act (s. 15.3) which places a limit of 1,000 hectares on the total annual area of land suitable for the cultivation of the soil or the raising of livestock which the Commission may authorize the acquisition of by persons not intending to settle in Quebec.

This purpose of this new legislative restriction imposed on the Commission is essentially to reduce the risk of a massive land grab of good farm land by non-residents.

NEW CRITERIA

Finally, when assessing an application to authorize the acquisition of land where it finds it to be suitable for the cultivation of the soil or the raising of livestock based on the biophysical conditions of the soil and of the environment, the Commission must henceforth take the following factors into consideration:

1° the intended use, in particular the applicant’s intention to cultivate the soil or raise livestock on the farm land that is the subject of the application;

2° the impact of the acquisition on the price of farm land in the region;

3° the effects of the acquisition or projected use on the economic development of the region;

4° the development of agricultural products and the development of underutilized farm land; and

5° the impact on land occupancy.

The imposition on the Commission of this specific set of criteria for its analysis indicates the legislator’s intention of ensuring that the acquired lands are in fact used for agricultural activities and of preventing lands suitable for cultivation or the raising of livestock from being acquired for purely speculative purposes.

These amendments have no retroactive effect and do not apply to applications for authorization

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pending on October 30, 2013.

SANCTION OF NULLITY

In closing, we note that the Act provides that the acquisition of farm land by a person not residing in Quebec without the Commission's authorization, or without complying with the conditions prescribed by law, is null and void, and any interested person, including the Attorney General of Quebec, may apply to the Superior Court for a declaration of the nullity thereof. If no such action is instituted, the Commission may order the contravening purchaser to divest itself of the farm land within a time period determined by it. If the purchaser does not comply with the order, the Commission may apply to the Superior Court for authorization to sell the land by judicial sale (s. 28).

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1. *An Act to amend the Act respecting the acquisition of farm land by non-residents* (2013, chapter 24).

2. A legal person is considered to reside in Quebec if it is controlled by one or more natural persons residing in Quebec.

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