CAIN LAMARRE

Mrs. Valéry Gauthier
Lawyer

Bill 86: Another Step Towards Better Protection for Agriculture in Québec?

Local agriculture has featured prominently among the concerns and solutions put forward by various levels of government in recent years, particularly given the climate crisis. In Québec, the *Act respecting the preservation of agricultural land and agricultural activities* (hereinafter the "APALAA") aims to protect agricultural land and to help sustainably protect and develop agricultural activities and businesses. On December 5, Bill 86 (the *Act to ensure the long-term preservation and vitality of agricultural land*) was tabled in the National Assembly, with the main objective of better protecting agricultural land to ensure its vitality. Bill 86 contains a number of amendments to the APALAA, including a few transitional measures that are already in force.

The sections that apply immediately prevent three types of authorizations from being filed with the Commission de la protection du territoire agricole du Québec (CPTAQ) until the bill is assented to (exceptions apply to projects that are already underway on the date the bill is tabled):

- Any application to construct a greenhouse with a total area of two hectares or more, or a plant production building other than a greenhouse with a total area of 5,000 m^2 or more, if it is situated mainly on Class 1 to 3 soils.[1] The definition of agriculture has been amended to make these buildings subject to Commission authorization;

- Requests for residential use in an acquired rights area: despite APALAA section 101, no person may add or construct an additional dwelling, residence, or any other additional building on the surface of a lot benefiting from an acquired right to residential use, except in the cases and conditions determined by regulation.[2] As such, without a validly issued building permit based on a CPTAQ notice of compliance between June 21, 2001, and December 5, 2024, the constructions listed above are prohibited unless authorized by the Commission;

- The acquisition by an investment fund or a legal person that is not a registered agricultural operation of farm land equal to or greater than four hectares consisting of one or more lots that are contiguous or deemed contiguous, when the farm land is situated in the territory of a metropolitan community or RCM included in the groups identified in the bill and is 1,000 metres or less from an urbanization perimeter.[3] No transaction covered by this new provision may take place after December 5, 2024.

More specifically at the municipal level, with a view to encouraging the use of farm land, the bill amends the *Act respecting municipal taxation* (hereinafter the "AMT") to give municipalities the power to impose, by by-law, a tax on any unit of assessment that includes workable but unworked agricultural land, as well as cases of exemption.[4] A definition of the land this measure covers will now be included in the AMT.[5] Also, the rate the local municipality sets for the tax for a fiscal year must not be more than three times the general property tax rate, or the basic rate in the case of variable-rate taxation.

Keep abreast of parliamentary proceedings, which resumed on January 28. The version that is assented to and the way it is applied in the future will reveal whether agriculture will fare better in Québec in the coming years.

1 Bill 86 ss. 20, 101, 102, and 110.
2 Bill 86 s. 84.
3 Bill 86 ss. 1 and 60.
4 Bill 86 ss. 14 and 16.
5 Bill 86 s. 14.