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The Municipal Power of Expropriation to Create Land Reserves under the *Act Respecting Municipal Industrial Immovables*

Acquiring land by expropriation to form a land reserve can be a strategic option for municipalities,¹ but the process can be daunting. It is governed mainly by two laws: the *Act respecting municipal industrial immovables* (AMIM) and the *Act respecting expropriation* (AE).

This article explores the regime, covering the different terms and obligations municipalities face during the expropriation process.

What is a municipal land reserve, and how can municipalities use it?

Municipalities have the power to own immovables to form a land reserve. This type of reserve allows them to hold immovables for future use by setting restrictions on their current development. In practice, this means that there can be no construction, renovation, or additions to those immovables (except for necessary repairs) for the duration of the reserve.

Land reserves can be useful in a multitude of ways. For instance, a municipality may want to acquire a lot to create an industrial park or to allow another, inaccessible vacant lot to be developed, thereby supporting the development and densification of an industrial sector.

A land reserve can also serve as a basis for a subsequent expropriation. Essentially, land reserves are a legal tool that allows municipalities to plan and to secure land for projects of public interest (such as industrial development) by restricting construction activities on that land for a certain amount of time.

How can the AMIM be used to establish a land reserve for industrial purposes?

The AMIM is highly useful for municipalities that want to establish this type of land reserve, as it gives them the powers needed to acquire and manage immovables specifically for industrial development.

Section 2 of the AMIM explicitly permits municipalities to order, in a by-law, the acquisition of immovables for industrial purposes (either by expropriation or by mutual agreement) or the construction, conversion, or operation of industrial rental buildings. This power is the basis on which a municipality can obtain land (particularly by expropriation) in order to develop an industrial sector. What's more, the AE stipulates that anyone who can expropriate an immovable can establish a reserve on it. By permitting the expropriation of land for industrial purposes, the AMIM therefore allows municipalities to establish land reserves for the same reason.

The AMIM also allows municipalities to enter into agreements for the construction of municipal infrastructure and equipment to serve immovables acquired under that law. This ensures that the reserved land can be properly developed with the necessary services.

In other words, the AMIM is the law that gives municipalities the necessary powers specifically when it comes to industrial development. It formalizes the land acquisition process and allows municipalities to establish land reserves in order to secure the land needed for industrial parks and sectors.

How does the AMIM complement the AE when a municipality wants to expropriate an industrial lot in order to create an industrial land reserve?

The AMIM works in tandem with the AE when a municipality wants to acquire industrial land through expropriation. The former gives the municipality the powers and legitimacy to do so, while the latter provides the procedural framework.

As such, when a municipality wants to create a reserve of industrial land, it must follow the process in the AMIM. As mentioned, the AE specifies that anyone who can expropriate an immovable can also establish a reserve on it, for the same purposes for which the expropriation was authorized. Therefore, the fact that the AMIM gives municipalities the power to expropriate land for industrial purposes also permits them to establish industrial land reserves under the AE.

In short, the AMIM allows municipalities to acquire land for industrial projects and establish industrial land reserves, while the AE lays out the detailed legal process for the acquisition, from the initial notice of establishment to the final determination of the indemnity.

What does a municipality need to do when it wants to use this power of expropriation?

The municipality must first adopt a by-law ordering the acquisition of the land. It must then serve the owner with a notice of expropriation. The notice needs to contain certain information, such as a description of the expropriated immovable, the purposes of the expropriation, and the date by which the immovable must be vacated. It must be accompanied by an initial detailed declaration that, at a minimum, indicates the market value of the expropriated right.

¹ This term applies to both cities and municipalities, as they have the same rights and responsibilities in this regard.

Once this notice has been served, the municipality must register it in the land register within 30 days of the expropriation date, i.e., the date on which the notice was served. After the registration, an initial provisional indemnity must be paid to the expropriated party.

Next, the municipality must serve a notice of transfer of right to the expropriated party. This notice must be registered in the land register and filed with the Tribunal administratif du Québec (TAQ) within 30 days of registration.

Once this process is complete, the expropriated party must file their detailed declaration, which contains the final indemnity sought, with the TAQ. The declaration must be notified to the municipality **within four months** of the expropriation.

Finally, once the notice of expropriation is filed, a proceeding to determine the expropriation indemnity is held before the TAQ. The parties may attempt to reach an agreement on the indemnity, but if they cannot, the process continues before the TAQ to set the final indemnity. Once these steps have been completed, the expropriation process comes to an end.

Conclusion

Land reserves can be a valuable tool for urban industrial development. The AMIM gives municipalities the legitimacy and means to acquire land for industrial purposes, while the AE provides the procedural framework.

Thanks to these mechanisms, municipalities can plan the future development of their territories and secure the land they need for local economic and industrial growth. What’s more, by following the procedures set out in the laws—from adopting the by-law to establishing the indemnity—they ensure the entire process remains transparent and in their citizens’ best interests.

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