

New Zealand.



ANALYSIS.

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1904, No. 12.—*Local.*

Title. . AN ACT to confer Additional Leasing-powers upon the Council of the City of Wellington. [8th November, 1904.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title. 1. The Short Title of this Act is “The Wellington City Leasing Act, 1904.”

Interpretation. 2. In this Act, if not inconsistent with the context,—
“City” means the City of Wellington;
“Corporation” means the Mayor, Councillors, and Citizens of the City of Wellington;

3. It shall be lawful for the Corporation, at any time within one year from the coming into operation of this Act, to accept a surrender of any lease granted by it before the coming into operation of this Act of any land as described in the First Schedule hereto, and not having any building thereon at the time of the granting of such lease, which lease shall not contain any provisions for renewal, or any provisions under which the lessee, his executors, administrators, or assigns, can receive compensation for any buildings or improvements, with a view to the granting by the Corporation to the person entitled to the estate and interest of the lessee under such lease of a new lease, under the provisions of section four of this Act.

4. It shall be lawful for the Corporation, upon any surrender made under section three of this Act, but within one year from the coming into operation of this Act, to grant to the person who immediately before such surrender was entitled to the estate and interest of

Corporation may accept surrenders of leases having no provisions for renewal or compensation.

Corporation may, in exchange, grant new lease in the form of lease in the Schedule hereto.

the lessee under the surrendered lease a new lease of the land comprised in the surrendered lease, for a term not exceeding twenty-one years, with provisions for renewal from time to time for successive terms of not exceeding fourteen years, which instrument may be a memorandum of lease or deed of lease (as the case may require), in or to the effect of the form of lease set out in the Second Schedule hereto :

Provided, first, that the rental reserved under such new lease shall, during a period equal to the unexpired portion of the term of the old lease, be four times the rental reserved by the surrendered lease, and shall for the balance of the term of twenty-one years created by such new lease be the fair annual ground-rent at the beginning of such balance of term of the land only, without any buildings or improvements, to be fixed by valuation according to the provisions of the form of lease set out in the Second Schedule hereto :

Provided, secondly, that if the new lease shall contain a covenant by the lessee to erect on the demised land, within five years from the date of the passing of this Act, a substantial building of a minimum size and of a character to be described in the said lease, the rent reserved under such new lease shall, during a period equal to the unexpired portion of the term of the old lease, be twice the rental reserved by the surrendered lease, and shall for the balance of the term of twenty-one years created by such new lease be the fair annual ground-rent at the beginning of such balance of term of the land only, without any buildings or improvements, to be fixed by valuation according to the provisions of the form of lease set out in the Second Schedule hereto :

Provided, thirdly, that if such new lease shall contain a covenant by the lessee to erect on the demised land, within eighteen months after the date on which the old lease surrendered under the provisions hereof would have expired if the same had not been so surrendered, a substantial building of a minimum size and of a character to be described in the said lease, the rent reserved under such new lease shall, during a period equal to the unexpired portion of the term of the surrendered lease, be two and one-half times the rent reserved by the said surrendered lease, and shall for the balance of the term of twenty-one years created by such new lease be the fair annual ground-rent at the beginning of such balance of term of the land only, without any buildings or improvements, to be fixed by valuation according to the provisions of the form of lease set out in the Second Schedule hereto :

Provided, fourthly, that if in any case a sublease of any part of land contained in a surrendered lease has, before the twentieth day of March, one thousand nine hundred and four, been created for a term of years which does not expire before the first day of January, one thousand nine hundred and ten (and satisfactory evidence thereof shall be furnished to the Council), and if the new lease shall contain a covenant by the lessee to erect on the demised land within six years of the passing of this Act a building of a minimum size and of a character to be described in such lease, the rent reserved shall be the same as if such lease had contained a covenant so to rebuild within five years of the passing of this Act.

Building covenant limited to certain classes of buildings.

5. Nothing in this Act contained shall authorise, or be deemed to authorise, the acceptance by the Corporation of any building covenant which does not provide that buildings shall be constructed of brick, stone, concrete, or some other equally durable material.

Lots may be surrendered and new leases granted.

6. Where two or more allotments are included in one lease, but the rent is apportioned to the several lots in the Corporation books, any one of such lots may be surrendered under this Act, and new leases granted upon such surrenders accordingly, as if separate leases of such lots respectively had been originally granted at the apportioned rents.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

1. MARKET Reserve, Cuba Street, Wellington.—Allotments 9, 10, 11, and 12 on the plan of the Market Reserve, Wellington City.

2. Te Aro Pa, Taranaki Street, Wellington.—Allotment 36 and parts of Allotments 37 and 43 on the plan of Te Aro Pa, Wellington City.

3. Lambton Reclamation.—Allotments 57A, 58A, 59A, 60A, 62A, 63A, 64A, 66C, 74, 81, 82, 83, 102, 104, 105, 106, 107, 108, 109, 111, 115, 116, 117, 118, 120, 121, 122, 123, 124, 129, 130, 135, 136, 139, 141, 142, 143, 145, 153, 154, 156, 157, 158, 161, 165, 166, and part of Allotment 65A on the plan of and being part of the land mentioned and described in the First Schedule to "The Wellington Reclaimed Land Act, 1871."

SECOND SCHEDULE.

FORM OF LEASE.

WE, the Mayor, Councillors, and Citizens of the City of Wellington, hereinafter called "the Corporation" (which expression shall include its assigns, where the context so requires or admits of), being registered as the proprietors of an estate in fee-simple, subject however to such encumbrances, liens, and interests as are notified by memorandum underwritten or indorsed hereon, in that piece of land situated in the City of Wellington, containing _____, be the same a little more or less, and being the lot numbered _____ on the plan deposited in the Lands Registry Office at Wellington as plan number _____, and being also part of the lands comprised in a _____ entered in the Register-book in the said office, Volume _____, folio _____, which piece of land is delineated in the plan drawn hereon, and therein bordered _____, do hereby lease to _____ all the said lands, to be held by the said _____, hereinafter called "the tenant" (which expression shall include executors, administrators, and assigns, where the context so requires or admits), as tenant for the space of twenty-one years, computed from the _____ day of _____, one thousand nine hundred and _____, at the yearly rental of _____ from the _____ day of _____, one thousand nine hundred and _____, until the _____ day of _____, one thousand nine hundred and _____ (date of expiry of surrendered lease), and thereafter during the balance of the said term of twenty-one years at a yearly rental being the fair annual ground-rent on the _____ day of _____, one thousand nine hundred and _____ (date of expiry of surrendered lease), of the above-mentioned lands only without any buildings or improvements, to be fixed by valuation as hereinafter provided, such rents to be payable half-yearly in advance on the _____ day of _____ and the _____ day of _____ in every year (the first of such payments having been already made), subject to the following covenants, conditions, and restrictions:—

And the tenant do hereby, for _____ heirs, executors, administrators, and assigns (jointly and severally), covenant with the Corporation that the tenant will during the term hereby granted pay the yearly rent hereinbefore reserved at the time and in the manner hereinbefore in that behalf mentioned (without any deduction).

And that the Council of the City of Wellington may from time to time make, impose, and levy in respect of the said premises hereby demised all such rates, taxes, charges, and assessments as it could lawfully make, impose, and levy in respect thereof if such premises were not owned by the Corporation.

And that the tenant will pay and discharge all rates, taxes, charges, assessments, and outgoings whatsoever now or hereafter during the said term to be assessed, charged, or imposed upon the said demised premises, or on the owner or occupier in respect thereof (including all rates, taxes, charges, and assessments from time to time assessed, charged, or imposed by the Council of the City of Wellington in respect of such premises). [*Here insert covenant to rebuild within five or six years of the passing of the Act, or within eighteen months of expiry of surrendered lease, as the case may be, where the lessee agrees to enter into a covenant to rebuild.*]

Provided always, and these presents are upon this condition, that if the rent hereby reserved or any part thereof shall at any time be in arrear or unpaid for thirty days after the same shall have become due (whether any formal or legal demand thereof shall have been made or not), or if there shall at any time be any breach or non-observance of any of the covenants by the tenant herein contained, then and in any such case it shall be lawful for the Corporation, or any person duly authorised by it in that behalf, into and upon the said demised premises, or any part thereof in the name of the whole, to re-enter; and thereupon this present lease and every clause and thing herein contained shall absolutely cease, determine, and become void, but without prejudice to any right of action or remedy of the Corporation for or in respect of any rent which shall have then accrued due under these presents, or for or in respect of any breach or non-observance of any of the covenants by the tenant herein contained that shall have then accrued.

And it is hereby agreed and declared that the rental to be paid during the balance of the said term of twenty-one years hereby created shall be assessed as follows:—

1. A valuation shall be made to ascertain the said annual rental: such valuation shall be made by three independent persons, one to be appointed by the Corporation (of which appointment notice in writing under the common seal of the Corporation, or signed by the Town Clerk or otherwise on behalf of the Corporation, shall be served upon the tenant or left on the premises hereby leased at any time after the day of , one thousand nine hundred and , six calendar months before the expiry of surrendered lease); one to be appointed by the tenant (of which appointment notice in writing shall be signed by the tenant, and shall be served upon the Town Clerk of the Corporation, or left at the public offices of the Corporation, within one month of the receipt of the last-mentioned notice from the Corporation); and the third valuer to be appointed by the two valuers appointed as aforesaid, by writing under their hands, before proceeding to the valuation.

2. Not more than two months after the Corporation shall give notice to the tenant of appointment of a valuer, the said three valuers, or any two of them, shall make their valuation and reduce the same in duplicate into writing, and sign each of such writings, and also serve one of such writings upon the Town Clerk of the Corporation, or leave the same at the public offices of the Corporation, and serve the other writing upon the tenant, or post the same to at last-known place of abode in the Colony of New Zealand.

3. In ascertaining such new rental the valuers shall not take into consideration the value of any building or improvements then existing on the demised premises, but they shall value the full improved ground-rental of the said premises that ought to be payable during the said new term.

4. If the tenant shall fail or neglect to appoint and notify the appointment of a valuer in manner aforesaid, then and in such case the valuer appointed by the Corporation shall make, reduce into writing, sign, and serve the valuation in manner hereinbefore provided alone.

5. Each party shall pay the fee of the valuer appointed by such party, and half the fee of the third valuer.

6. No default or omission on the part of the Corporation to appoint such valuer as aforesaid shall affect the right of the Corporation to demand the rent due hereunder after the day of , one thousand nine hundred and (date of expiry of surrendered lease).

And it is hereby also agreed and declared that if the tenant shall, at least six calendar months before the expiration of the term hereby granted, serve upon the Town Clerk of the Corporation, or leave at the public offices of the Corporation, a

notice in writing addressed to the Corporation, signed by the tenant, or signed on behalf of the tenant by attorney or agent or solicitor, stating the desire of the tenant to have a valuation made of the annual rental of the said demised premises for a term of fourteen years, to commence from and after the expiration of the term hereby granted, and naming an independent person appointed by the tenant to act as valuer for the purpose of such valuation, and containing an address at which all notices under the provisions hereinafter contained may be served, and if the term hereby granted shall not have been determined by re-entry or otherwise, then and in such case the following provisions shall have effect, namely:—

1. A valuation shall be made to ascertain the said annual rental: such valuation shall be made by three independent persons, one appointed by the tenant as aforesaid; one to be appointed by the Corporation (of which appointment notice in writing under the common seal of the Corporation, or signed by the Town Clerk or otherwise on behalf of the Corporation, shall be served upon the tenant or left at the address for service contained in the notice served by as aforesaid at least five calendar months before the expiration of the term hereby granted); and the third valuer to be appointed by the two valuers appointed as aforesaid, by writing under their hands, before proceeding to the valuation.

2. At least three calendar months before the expiration of the term hereby granted, and not afterwards, the said three valuers, or any two of them, shall make their valuation, and reduce the same in duplicate into writing, and sign each of such writings; and also, at least three calendar months before the expiration of the term hereby granted, and not afterwards, serve one of such writings upon the Town Clerk of the Corporation, or leave the same at the public offices of the Corporation, and serve the other writing upon the tenant, or leave the same for at the address for service contained in the notice served by as aforesaid.

3. In ascertaining such new rental the valuers shall not take into consideration the value of any building or improvements then existing upon the said demised premises, but they shall value the full and improved ground-rental of the said premises that ought to be payable during the said new term.

4. If the Corporation shall fail or neglect to appoint and notify the appointment of its valuer in manner aforesaid at least five calendar months before the expiration of the term hereby granted, then and in such case the valuer appointed by the tenant shall, at least three calendar months before the expiration of the term hereby granted, and not afterwards, make, reduce into writing, sign, and serve the valuation in manner hereinbefore provided alone.

5. Each party shall pay the fee of the valuer appointed by such party, and half the fee of the third valuer.

And the Corporation doth hereby, for itself and its assigns, covenant with the tenant that if the tenant, having given notice in manner and time aforesaid of desire to have a valuation made as aforesaid, shall, at least two calendar months before the expiration of the term hereby granted, serve upon the Town Clerk of the Corporation, or leave at the public offices of the Corporation, a notice in writing addressed to the Corporation signed by the tenant, or signed on behalf of the tenant by attorney or agent or solicitor, stating the desire of the tenant to take a new lease of the said demised premises for a term of fourteen years, to commence from and after the expiration of the term hereby granted, at the annual rental ascertained by valuation as aforesaid, or, if from any reason whatsoever no such valuation as aforesaid shall have been made, then stating the desire of the tenant to take such new lease at the full and improved ground-rental of the said demised premises that ought to be payable during the said new term, without reference to the value of any buildings or improvements then existing thereon, then and in such case the Corporation and all other necessary parties (if any) shall (the term hereby granted not having been determined by re-entry or otherwise than by effluxion of time), at the reasonable cost of the tenant, and upon the tenant executing and delivering to the Corporation a counterpart thereof, make, execute, and deliver to the tenant a new and effectual lease of the said demised premises for the said further term of fourteen years, at the new annual rental ascertained by valuation as aforesaid, or (as the case may be) at such full and improved ground-rental as aforesaid, and with, under, and subject to the like covenants, provisoes, agreements, declarations, and provisions as are contained in this present memorandum of lease, including the present covenant for renewal and all provisions ancillary or in relation thereto.

And the Corporation will, at the request and reasonable cost of the tenant, do all acts necessary for perfecting the said new lease, whether by registration or otherwise :

Provided always that the building covenant hereinbefore contained shall not be included in any new lease as aforesaid.

And it is hereby expressly declared that no covenant, proviso, or other provisions shall be deemed implied herein by statute.

And it is hereby declared that the marginal notes of substances of clauses are inserted for more convenient reference only, and are not in any way to affect the construction or interpretation of these presents.

do hereby accept this lease of the above-described lands, to be held by as tenant and subject to the conditions, restrictions, and covenants above set forth.

In witness whereof the Corporation has caused its common seal to be hereunto affixed, and the tenant ha hereto subscribed name , this day of , one thousand nine hundred and .

WELLINGTON: Printed under authority of the New Zealand Government,
by JOHN MACKAY, Government Printer.—1904.