

No. 3—1942.

Restriction of Ribbon Development.

AN ORDINANCE to provide for the imposition of restrictions upon development along the frontages of roads ; to regulate the payment of compensation in respect of land acquired for the construction or improvement of roads or for preventing or restricting development along the frontages of roads or for improving the amenities of roads ; and for purposes connected with the matters aforesaid.

Commencement.

[12th February, 1942.]

Short title.

1. This Ordinance may be cited as the Restriction of Ribbon Development Ordinance, 1942.

Interpretation.

2. In this Ordinance—

“agriculture” includes horticulture when carried on as a trade or business, and the use of land for any purpose of husbandry, whether as arable, meadow, pasture-ground or orchard, or for the keeping or breeding of livestock or poultry, or for the purpose of a plantation or a wood ;

“building” includes neither fences, gates, posts, masts, ornaments, or other similar structures or erections required for the purposes of agriculture or of any dwelling-house or garden occupied with a dwelling-house, nor green-houses or summer-houses required in connection with any such garden, nor temporary tents or scaffolding required for any purpose, but save as aforesaid includes any structure or erection of whatsoever material and in whatsoever manner constructed, and any part of a building ;

“Commission” means the Planning and Housing Commission of Trinidad and Tobago constituted under Part II of the Slum Clearance and Housing Ordinance ;

Ch. 37. No. 2.

- “ Commission as planning authority ” means, in relation to any land subject to a planning scheme or a resolution to prepare or adopt such a scheme, the Commission in its capacity as the authority having power to control the development or interim development of that land, and in paragraph (c) of section 6 includes any tribunal or authority to whom an appeal lies from any decision given by the Commission in that capacity ;
- “ contravention ”, in relation to any restriction or condition, includes any failure to comply with that restriction or condition ;
- “ land ” includes land covered with water and any right in, over, or under land ;
- “ local authority ” means the Municipal Corporations of Port-of-Spain, San Fernando and Arima, within their respective jurisdictions and any other authority which the Governor in Council may by order published in the *Royal Gazette* declare to be a local authority for the purposes of this Ordinance, and within the area and to the extent specified in the order ;
- “ means of access ” includes any means of access, whether private or public, for vehicles, foot passengers or animals, and includes any street ;
- “ owner ” in relation to any land means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land or of an interest in the land held under lease from the Crown ;
- “ planning scheme ” means a scheme under the

Ch. 37. No. 3.

“ proposed road ” means land upon which, in accordance with plans prepared by or on behalf of the Government or other appropriate authority, a highway, or part of a highway, shown in the plans which will be, or form part of, a public highway is being constructed or is intended to be constructed ;

“ public highway ” means a highway dedicated whether by user or by grant express or implied or by law or by proclamation of the Governor to the public use ;

“ road ” means a public highway and includes any part of such a highway and any proposed road and any bridge over which such a highway passes or a proposed road is intended to pass ;

“ statutory undertakers ” means any persons authorised by law to construct, work or carry on public undertakings or to perform functions of a public nature.

Special provisions relating to the Commission.

3. (1) The Commission shall exercise the powers conferred upon it by this Ordinance subject to any general or special directions which may be given by the Governor in Council.

(2) Whenever the Commission shall have under consideration any matter relating to property wholly or in part within the area of a local authority, the Commission shall notify such authority of the date of the meeting at which the matter will be considered and thereupon the local authority shall have the right to delegate three of their members to attend that meeting for the purpose of considering that matter, and to that extent such delegates shall be members of the Commission with the right of deliberating and voting in the same manner as any other member.

(3) The provisions of sections 4 to 10 of the Slum Clearance and Housing Ordinance, other than the provisions of subsection (2) of section 5 thereof, shall *mutatis mutandis* have effect as though they formed part of this Ordinance.

(4) All expenses lawfully incurred by the Commission in, or as a result of, the performance of their duties under this Ordinance shall be defrayed out of the public moneys of the Colony.

Restriction of building development along frontages of certain roads.
1st Schedule.

4. The Governor in Council may by order direct that any road shall be subject to the provisions of this section, and thereupon the provisions of the First Schedule shall be complied with ; and on and after the date on which notice of the order is published in the *Royal Gazette* in accordance with those provisions, the following restrictions shall,

subject to the provisions of this Ordinance as to exemptions, be in force, that is to say, it shall not be lawful without the consent of the Commission—

- (a) to construct, form or lay out, any means of access to or from the road ; or
- (b) to erect or make any building upon land within such area on either or both sides of the road as may have been determined by the order of the Governor in Council under this section.

5. For the avoidance of doubt it is hereby declared that the provisions of subsection (1) of section 20, and of paragraph (a) of subsection (1) of section 22 of the Interpretation Ordinance, shall apply in relation to the power to make orders under section 4 ; but nothing in this section shall be construed as limiting the application of any other provisions of the Interpretation Ordinance.

Application of Interpretation Ordinance to orders under sections 1 and 2.

Ch. 1. No. 2.

6. Save as hereinafter provided, no restrictions in force under section 4 shall apply to the construction, formation, or laying out, of any means of access or to the erection or making of any building—

Exemptions for works in progress, &c.

- (a) begun before the date on which the restrictions came into force ; or
- (b) carried out in execution of a contract made before that date otherwise than in contemplation of such restrictions ; or
- (c) carried out in accordance with any permission granted before that date by the Commission as planning authority.

7. Where restrictions are in force under section 4 as respects any road, the Commission may erect and maintain fences or posts for the purpose of preventing access to the road except at such places as may be permitted by them : Provided that such fences or posts shall not be erected or maintained so as to obstruct any public right of way, or any means of access exempt under the provisions of the last foregoing section from the restrictions, or constructed, formed or laid out before the date on which the restrictions came into force, or with the consent of the Commission on or after that date.

Power to fence roads subject to restrictions.

Deposit of
plans showing
roads subject
to restrictions.

8. It shall be the duty of the Commission to deposit at their offices and at such other places, if any, as the Governor may direct, sufficient plans showing all roads which are subject to restrictions in force under section 4, the nature of the restrictions, and the area to which the restrictions apply; and the plans so deposited shall be available for inspection by the public free of charge at all reasonable times.

General pro-
vision as to
consent.

9. (1) Subject to the provisions of this Ordinance, any consent which the Commission has power to give under section 4 may be given subject to such conditions as the Commission think fit to impose.

(2) Subject as hereinafter provided, any conditions imposed by the Commission attached to any such consent as aforesaid shall be binding upon, and enforceable by, the Commission against every person for the time being having any estate or interest in the land to which they relate :

Provided that, where any such consent is given upon the application of any person having a less estate or interest in the land than that of owner, any condition requiring the execution or maintenance of any works upon the land shall not be binding upon, or enforceable against, any person other than the applicant and his successors in title to that estate or interest.

(3) If any applicant for consent is aggrieved by any decision of the Commission withholding any consent or attaching any condition, he may appeal to the Governor in Council who may make such order as he thinks fit, and the decision of the Governor in Council shall be final.

(4) If at the expiration of a period of three months after an application for any such consent, specifying the name and address of the applicant and sufficient particulars as to the consent required, has been delivered to the Commission no decision has been notified in writing, posted or delivered to the applicant at that address, then (except as may be otherwise agreed in writing between the Commission and the applicant) the consent shall be deemed to have been given without the imposition by the Commission of any conditions.

(5) The Commission shall maintain a register with sufficient particulars of all consents given by them under section 4, and the register shall be available to the inspection without charge of all persons interested and such persons shall be entitled to take extracts therefrom.

10. Where an application is made to the Commission for permission to develop land which is subject to a planning scheme or to a resolution to prepare or adopt such a scheme and which is also affected by restrictions in force under section 4, the application shall be treated as an application to the Commission as planning authority and also as an application for consent under section 4, unless the applicant has requested that the application shall not be so treated.

Provisions as to applications for consent when planning schemes are in force.

11. (1) Subject to the provisions of this section, if any person having any estate or interest in land, which includes any piece of land subject to restrictions under section 4, proves that his estate or interest is injuriously affected by the restrictions, he shall be entitled to recover from the Commission compensation for the injury to that estate or interest; and any question whether compensation is payable under this section or as to the amount of any compensation so payable shall, in default of agreement, be determined by arbitration or by the appropriate tribunal as though it were compensation for the acquisition of land payable under the Land Acquisition Ordinance, 1941, and the provisions of the said Ordinance specified in the Second Schedule hereto shall apply accordingly but with the modifications specified in the said Schedule :

Compensation for injurious affection.

No. 14 of 1941.

2nd Schedule.

Provided that, without prejudice to the power of the Commission to agree with any claimant as to the payment of compensation, no claim for compensation under this section in respect of injurious affection to any estate or interest shall be entertained by the arbitrator or tribunal aforesaid—

(a) unless the claimant satisfies the arbitrator or tribunal—

(i) that proposals for the development of that land which at the date of the claim to compensation are immediately practicable or would have been so if this

Ordinance had not been passed, are prevented or injuriously affected by the restrictions ; and

(ii) that there is a demand for such development ;

(b) if within three months after the claim to compensation has been delivered to the Commission, notice is served on the claimant that the piece of land is being compulsorily acquired and the acquisition is completed within twelve months after the claim ; so however that, in any case in which notice as aforesaid is served, the claimant shall be entitled to be repaid by the Commission the amount of any expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and any question as to whether such expense has been properly incurred or as to the amount thereof shall be determined as though the claim to be repaid such expense was a claim to compensation under this section.

(2) No compensation shall be payable under this Ordinance in respect of injurious affection to any estate or interest in any land by reason of a piece of land being subject to restrictions in force under this Ordinance—

(a) if and in so far as the piece of land is subject to substantially similar restrictions in force under some other Ordinance which were so in force at the date when the restrictions came into force under this Ordinance ; or

(b) if compensation in respect of the same restrictions in force under this Ordinance or of substantially similar restrictions in force under some other Ordinance has already been paid to any predecessor in title to that estate or interest.

(3) Where any land acquired after the passing of this Ordinance is utilised for the widening of a road or the construction of a new road, no compensation shall be

payable under this section in respect of adjacent land by reason of restrictions as to means of access in force under this Ordinance relating to the road as so widened or constructed :

Provided that, where the road as so widened or constructed incorporates land which before the widening or construction was a road, compensation shall be payable under this section in respect of any adjacent land not acquired as if the restrictions as to means of access had related to the road so incorporated, and as if the widening thereof or the construction of the new road, as the case may be, had not taken place.

(4) In awarding compensation under this section in respect of any estate or interest in land, the compensation shall, subject to the provisions of this section, be a sum equal to the difference between the market value of the estate or interest when the piece of land is subject to the restrictions and what would have been the market value of that estate or interest if the piece of land had not been so subject :

Provided that—

- (a) in assessing the market value of the estate or interest when the piece of land is subject to the restrictions, there shall be taken into account any modification of those restrictions by reason of any consent given by the Commission and any conditions attached to such consent, or by reason of any undertaking given or proposed to be given by the Commission and any such consent, conditions, or undertaking, shall be embodied in the award ;
- (b) there shall be taken into account any benefit which may accrue to any land in which the claimant has an estate or interest by reason of the construction or improvement by any other person (including the Government) at any time after the coming into force of restrictions under this Ordinance, upon land adjacent to the land in respect of which compensation is claimed, of any road or of any carriage way or other way subsidiary to such a road, or by reason of the coming into force of the restrictions ;

- (c) if the piece of land has, since the date on which the restrictions came into force, become, or ceased to be, separate from other land, the amount of compensation shall not be enhanced by reason of its having so become or ceased. For the purposes of this paragraph a piece of land shall be deemed to be separate from other land when the person having the estate or interest therein in respect of which compensation is claimed has not the like estate or interest in the other land.

Contra-
ventions.

12. (1) If any person constructs, forms or lays out any means of access or erects or makes any building in contravention of restrictions in force under section 4, he shall, without prejudice to any other proceedings which may be taken against him, be guilty of an offence and shall be liable on summary conviction thereof to a fine of two hundred and forty dollars and, whether or not any proceedings are taken either in respect of the offence or otherwise, the Commission may close up the means of access or demolish the building in relation to which the contravention was committed and reinstate the land in the condition in which it was before such means of access was constructed, formed or laid out or such building was erected or made and the expenses incurred by the Commission in so doing shall be recoverable summarily as a civil debt from the person by whom the contravention was committed :

Provided that the Commission shall not close up any means of access, or demolish any building which has not been determined in any proceedings to have been constructed, formed, or laid out, erected or made in contravention of such restrictions as aforesaid until twenty-eight days after notice of their decision to do so has been served on the person entitled to possession of the land on which the contravention is alleged to have been committed, and, if that person is aggrieved by the decision of the Commission, he may within the said period of twenty-eight days appeal against the decision to the Petty Civil Court of the district in which the means of access or building is situated, and the appellant or the Commission, if aggrieved by the order made by the said Court, may appeal against that order to the Full Court.

(2) If the owner or occupier of any land subject to restrictions in force under section 4 commits, or permits any other person to commit, any contravention of a condition attached to any consent given under that section, he shall be guilty of an offence and shall be liable on summary conviction thereof to a fine of twenty-four dollars for every day on which the contravention occurs or continues.

13. (1) Where, under the powers conferred by the Land Acquisition Ordinance, 1941, or by any other law, land is acquired by the Crown or by any other authority for the purposes of the construction or improvement of a road or of preventing or restricting development along the frontages of a road or of improving the amenities of a road, the arbitrators or tribunal determining the compensation shall, in addition to matters to which they would be required to have regard if this section had not been passed—

Provisions as to compensation in relation to the acquisition of land for, or for purposes connected with, roads.

- (a) have regard to the extent to which the remaining contiguous lands belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired, and in particular (without prejudice to the generality of the foregoing provisions of this paragraph), in the case of land authorised to be acquired for the widening of any road, set off against the value of the land to be acquired any increase in the value of other land belonging to the same person which will accrue by reason of the creation of a frontage to the road as widened; and
- (b) take into account and embody in the award any undertaking given by the Government or other acquiring authority, as the case may be, as to the use to which the land, or any part thereof, will be put.

(2) This section shall not apply in cases in which land is acquired by virtue of a planning scheme.

(3) Where in the case of any such acquisition as is contemplated by this section, the land acquired is subject to restrictions in force under section 4, any compensation payable in respect of any estate or interest in the land acquired shall be assessed as if the restrictions were not in force, if compensation in respect of injury to that estate or interest occasioned by the restrictions has been paid under this Ordinance neither to the person having that estate or interest nor to any of his predecessors in title.

Power to
make rules
conferring
exemptions on
statutory
undertakers.

14. (1) The Governor in Council may make rules for exempting specified statutory undertakers absolutely or conditionally from all or any restrictions which may be in force by virtue of section 4.

(2) Rules made under this section shall not have any force or effect until confirmed by resolution of the Legislative Council.

Service
of notices.

15. A notice which is required by this Ordinance to be given or sent to any person may be given or sent either—

- (a) by delivering it to the person on whom it is to be served ; or
- (b) by leaving it at the usual or last-known place of abode of that person ; or
- (c) by sending it in a prepaid letter addressed to that person at his usual or last-known place of abode ; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office ; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of an owner or occupier of premises on whom it should be served, or if the premises are unoccupied or the name of the occupier is not known, by addressing it to him by the description of "owner" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

FIRST SCHEDULE.

(Section 4.)

NOTICE OF ORDERS UNDER SECTION 4.

1. Every order of the Governor in Council under section 4 shall—
 - (a) be published in the *Royal Gazette*, and
 - (b) be advertised in one or more newspaper circulating in the Colony, and
 - (c) be advertised, communicated or exhibited in such other manner as the Governor in Council may, if he shall think fit so to do, direct.
2. Every such order shall describe the road to which it relates and shall specify the places and times at which the plans deposited in accordance with the provisions of this Ordinance may be inspected.

SECOND SCHEDULE.

(Section 11.)

APPLICATION OF THE LAND ACQUISITION ORDINANCE, 1941, TO COMPENSATION AND EXPENSE RECOVERABLE UNDER SECTION 11.

The sections of the Land Acquisition Ordinance, 1941, specified in column 1 of the Table hereto shall apply with the modifications specified in column 2 thereof.

Column 1 Section of Ordinance.	Column 2 Modifications (if any).
14 and 15	...
17	... Omit the words " or the Director " in subsection (1). Substitute " Commission " for " Director " in subsection (4).
18	... Substitute " Commission " for " Director ".
19	... Omit the words " or by the Director " in subsection (2). Substitute " Commission " for the words " Director or the claimant as the case may be " in subsection (4).
20	... —
21	... Substitute " Commission " for " Director " in subsection (5).
22 and 23	... —
24	... Substitute " the application of the same restrictions to the same land " for the words " the acquisition of the same land " in subsections (1) and (2).
25 to 30	... —
31	... Substitute " Commission " for " Director " throughout. Omit the words " he has failed to put forward a proper claim within a reasonable time after the posting and service of the notice under section 6 of this Ordinance or " in subsection (2).
32 to 37	... —
38 (2)	... Substitute " Commission " for " Director ".
39	... —