

PRESENT SEA WALL AMENDMENT

(Continued from page 3)

assessment shall be reported by the Board of Assessors to the Sanitary and Reclamation Commission as in the above section directed, the same shall be filed with the Secretary thereof and numbered; before adopting the assessment, the Commission shall cause notice to be published at least ten days in some newspaper of the City of the filing of the same with the Secretary thereof, and appointing a time when a committee of the Commission appointed by it for that purpose and the Board of Assessors shall sit as a Board of Equalization and shall have power to raise or lower the whole or any part of such assessment; provided, that in case any assessment is raised the party affected thereby shall be notified in writing at least three days before such change shall be made. Any person objecting to the assessment must file his objection thereto in writing with the Secretary of the Commission. The said Commission and Board of Assessors shall report the result to the Commission which shall have the power and authority to review and correct the action of said Board of Equalization and by resolution confirm the same as corrected; or they may refer the same back to the Board of Assessors of the Commission for revision or annul it and direct a new assessment; in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the Secretary of the Commission shall endorse a certificate thereof upon the roll showing the date of confirmation. When any special assessment shall be confirmed by the Commission, it shall be final and conclusive. All special assessments from the date of confirmation thereof shall constitute a lien upon the respective lots, parcels of land, water frontage, rights of way and franchises assessed and shall also be a charge against the person to whom assessed, until paid. Upon the confirmation of such assessment, it shall be the duty of the Secretary of the Commission to enter a statement thereof in the docket of the City of the Sanitary and Reclamation Commission of the City of Astoria.

Section 174. The docket of city liens of the sanitary and reclamation commission is a book in which must be entered in pursuance to Section 16, the following matter in relation to assessments for the filling in and reclaiming of any tide lands, overflowed lands or water frontage in any improvement district.

1st. The name of the owner of each lot, tract or parcel of land or tract or parcel of water frontage or right of way or franchise assessed or that the owner is unknown.

2nd. The number or letter of the lot assessed and the number or letter of the block and the town or addition in which it is situated, or a tract of land or water frontage or right of way or franchise, the description of the same.

3rd. The sum assessed upon such lot or tract of land, right of way or franchise and the date of entry.

4th. The time and manner in which the same is to be paid, and if payable in installments, the amount of each installment and the date of payment.

Section 175. Whenever the assessment for filling in or reclaiming any district against a lot of twenty-five feet by one hundred feet or an equivalent quantity of land shall amount to the sum of \$100.00 or more, the Commission shall order that the assessment for such improvement may be paid in ten equal installments, one to be paid at the time for the payment of the special assessment and one shall be paid every two years thereafter at such time as the Commission shall order, together with interest on the portion still remaining unpaid at the rate of five per cent annum until the whole sum is paid; provided however that all persons entitled to the benefit of this provision shall on or before the confirmation of such assessment, or within such further time it shall be provided in the resolution confirming the assessment filed with the Secretary of the Commission on a written application that he be allowed to pay the costs of such fill or improvement in installments in which written application he shall also state that he does thereby waive all and any irregularities in such proceedings for the filling or reclamation of such district and the levying of the assessment for that purpose, and giving therein also a description of his property affected thereby by the lots, blocks or other convenient descriptions and thereafter and thereupon such property owner and such property thereby affected shall pay the cost of such improvement in installments as above provided. Provided, further, however, that such owner and such property shall have the privilege at any time of paying the whole of such assessment and all interest accrued, and thereupon have such property released from the lien of said assessment.

Provided further, that whenever the assessment of any one person, or persons owning property jointly, company or corporation, for such fill or improvement, shall exceed the sum of \$500.00 then such person or persons, company or corporation shall have the privilege of this section as to payment in installments upon like terms. All special assessments, except such installments thereof as the commission shall make payable at a future time as provided herein, shall be due and payable on confirmation, or at such time thereafter as the Commission may prescribe.

In case any installment of assessment against any lot or parcel of land shall not be paid within thirty days from the time the same becomes due, the commission shall have the privilege and option of declaring by resolution that all of the remaining unpaid installments which stand against the same property shall at once become due and payable; and when so declared all such installments may be collected at the same time and in the same manner as in case of the first installment then over-due or said remaining unpaid installments may be collected at one time by suit in the circuit court of the State of Oregon for Clatsop County, in which suit the person owning the property upon which the unpaid installments for any one remaining due may be joined as parties defendant.

Whenever any special assessment shall be adjudged illegal or invalid for any reason or in case there shall have been a failure to assess the cost of any improvement upon the lands properly chargeable therewith the Commission shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All the proceedings for such re-assessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or any part thereof levied upon any premises in the assessment so set aside, has been paid and not refunded, the payment so made shall be applied upon the re-assessment upon such premises and the re-assessment shall be to that extent satisfied. No judgment or decree of any court, nor any act of the Commission vacating a special assessment shall destroy or impair the lien of the City upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by a regular assessment made of proceedings might have been lawfully assessed thereon; and provided further that in case of any irregularity of any of the proceedings for the filling in or reclaiming of any district or the levying of the assessment to defray the costs and expenses thereof, whether such irregularities be jurisdictional or otherwise the City of Astoria shall have power to bring suit in the Circuit Court of the State of Oregon for Clatsop County against the owner or owners of the lot or lots, block or blocks, or parcel or parcels of land, including water frontage, rights of way and franchises upon which the cost of such improvement might or could have been charged or imposed and which were benefited thereby, which said lands, lots and premises and water frontage and rights of way and franchises shall include all lots, lands and premises, water frontage, rights of way and franchises within the reclamation district and recover the proportion of the costs of such improvement from each of said lots, lands and premises, water frontage, rights of way and franchises benefited by such improvement according to the benefit resulting to each from the improvement. In any such suit so instituted, all persons whose property is or would be so liable for the payment of any such proportion of the assessment aforesaid shall be joined as parties defendant in one suit and the judgment rendered therein shall be a several judgment in rem against each of said lots or parcels of land and water frontage, right of way or franchise owned by each of the several defendants for its proportion of the cost of the improvement, and the costs and disbursements and the lien thereof shall be decreed upon the premise. The general laws of the State of Oregon governing suits in equity, service of summons, and other process shall apply to any such suit.

Section 176. The docket of City liens in which such assessments shall be entered and all other records of the Commission, shall be deemed public writings and the originals or certified copies of the same or any part thereof shall be entitled to the force and effect thereof, and from the date of the entry of an assessment upon a lot or part thereof, tract or parcel of land, water frontage or right of way or franchise, the sum so entered is to be deemed a lien thereon which said lien shall have priority over all other liens or incumbrances thereon whatsoever.

Section 177. For the purpose of ascertaining who is the owner of any lot or part thereof, parcel or tract of land, including water frontage, right of way or franchise assessed for filling in or reclaiming the same, including the streets and intersections thereof, the Secretary of the Sanitary and Reclamation Commission shall take the certificate of the County Clerk of Clatsop County stating who is the owner thereof at the date of the resolution ordering the assessment, as may appear from the records of deeds of said County, which certificate such County Clerk is authorized and required to give when demanded to give the same by the Secretary of the Commission.

Section 178. A sum of money so assessed for reclaiming or filling in any district cannot be collected until by order of the Commission, ten days' notice thereof is given by the Secretary thereof, by publication in a daily newspaper published in the City of Astoria. Such notice must contain the number of the assessment roll, a brief description of the district filled in or reclaimed and the names of the persons against whom the assessments are made, and the amount owing by each and no other statement shall be required.

Section 179. If within ten days from the expiration of said ten days' notice as required by section twenty-one, the sum assessed upon any lot or part thereof, tract or parcel of land, tract of water frontage, right of way or franchise is not wholly paid to the treasurer of the Commission and a duplicate receipt filed with the Secretary thereof, the Commission may thereafter order a warrant issued for the collection of the same to be issued by the Secretary of the Commission directed to the Chief of Police of the City of Astoria.

Section 180. Such warrant shall have the force and effect of an execution against real property and shall be executed in like manner except as

herein otherwise provided. Such warrant must require the Chief of Police to proceed to collect the unpaid assessments named therein by advertising and selling to the highest bidder the lot, part thereof or tract of land or right of way, or franchise described in the warrant in the manner provided by law for the sale of such property under execution, and return the proceeds of such sales to the Treasurer of the Commission and the warrant to the Secretary thereof with his doings endorsed thereon together with the receipt of the treasurer of the Commission for the proceeds of such sale as paid to him: Provided, that all the unpaid assessments for any one improvement may be included in one advertisement and notice of sale, but each piece or parcel of land shall be sold separately and for a sum not less than the unpaid assessment thereon, and interest and cost of advertising the sale; and provided further that in the execution of said warrant no levy upon the lot, or lots or parcels of land, rights of way or franchises described therein shall be required. The notice of sale shall be published once a week for four successive weeks prior to the date of sale. The warrant shall be returned within ninety days after the receipt of the same by the Chief of Police, and alias warrants may be issued when required. At every sale of real estate under any such warrant for the collection of delinquent assessments, the Chief of Police or some other officer duly authorized by the Commission shall bid for and in the name of the City of Astoria for each tract, lot or parcel of land, right of way or franchise offered for sale, the amount of the assessment against the same including the amount of any costs and charges accrued; and if not greater sum be bid such tract, lot, parcel of land, right of way or franchise shall be struck off to the City of Astoria and shall be held by it and be subject to redemption in like manner as if it had been sold to a private person and the Sanitary and Reclamation Commission or the Common Council may provide for selling and disposing of the same at any time after the right of redemption shall have expired.

Section 181. The Chief of Police executing such warrant shall immediately make a deed for the property sold thereon to the purchaser stating therein that the same is made subject to redemption as provided in this act. Within three years from the date of such sale the owner or his successor in interest or any person having a lien by judgment, decree or mortgage on the property or any part thereof separately sold may redeem the same upon the terms and conditions provided in the next section.

Section 182. Redemption shall be made by the payment of the purchase money and 10 per cent additional as a penalty together with interest on the purchase money from the date of sale to the time of payment at the rate of 6 per cent per annum, and the amount of any tax which the purchaser may have paid on the property redeemed. Redemption from the City of Astoria shall be made by payment to the Treasurer of the Commission and written applications to the Commission and upon application being granted, the Chairman and Secretary of the Commission shall execute redemption certificates to the person or persons making redemption. A redemption discharges the property from the effects of the sale for the assessment. If made by the owner or his successor in interest, the estate in the property is thereby restored to the owner or his successor in interest as the case may be, but if made by a lien creditor, the amount paid for redemption is thereafter to be deemed a part of his judgment, decree or mortgage, as the case may be and shall bear like interest and may be enforced and collected as part thereof.

Section 183. Whenever a purchaser or those claiming under him refuse to convey to the person entitled to redeem such person may enforce such conveyance thereof by a suit in equity as for a specific contract to convey real property, and such suit may be maintained against absent person without proof of tender of money and offer to redeem, if the plaintiff bring the money into Court with his complaint, and offers to redeem. Every action, suit or proceeding which may be commenced for the recovery of land which shall have been sold by the Chief of Police of Astoria for any such assessment except in cases where the assessment for which the land was sold has been paid before the sale or the land redeemed as provided by law, shall be commenced within four years from the time of the recording of the deed executed by the Chief of Police and not thereafter. In any suit, action or proceeding in any Court concerning any assessment of property authorized by this act or the collection of such assessment or proceedings consequent thereon, such assessment and subsequent proceedings and all proceedings connected therewith shall be presumed to be regular and duly done or taken until the contrary is shown; and when any proceedings, matter or thing is by this act committed or left to discretion or judgment of the Commission, such discretion or judgment when exercised or declared is final and cannot be reversed or called in question elsewhere.

Section 184. In making a deed for real property sold for a delinquent assessment for filling in or reclaiming any improvement district, it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient if it substantially appears from such deed that the property is sold by virtue of a warrant from the Secretary of the Commission and the date thereof, together with the date of sale and the amount bid thereat by the purchaser and the person to whom sold and such deed shall be prima facie evidence of the authority to make the sale and the regularity of

all anterior proceedings. No suit or legal proceedings shall be instituted to set aside such a deed or to have the same declared void without first tendering to the purchaser of the property at the assessment sale, his heirs or assigns, whether the purchaser be the City or otherwise, the amount bid at such sale for the property, together with ten per cent penalty on said amount, with interest on the amount bid at such sale from the date of sale at six per cent per annum and all taxes and assessments paid by such purchaser on account of such property, with like interest thereon. And in any such suit or action prosecuted by any person claiming to be the owner of any property under an assessment sale for the recovery of the possession of such property, the defendant, except in cases where the assessments have been paid or the property redeemed shall tender with his answer and pay into Court for the benefit of the holder of the assessment title the amount hereinbefore required to be tendered in an action brought to set aside such assessment deed. The style of the warrant for the collection of delinquent assessments shall be "in the name of the City of Astoria."

Section 185. Any contractor who has entered into any contract with the City of Astoria to fill in or reclaim any reclamation district under this act, may dredge out material for the purpose of making the fill from the bed of the Columbia River along the City water front outside of the pier head line under such restrictions and regulations as the Sanitary and Reclamation Commission may from time to time prescribe by resolution.

Section 186. Nothing in this act contained shall be so construed as to in any way abridge or interfere with the power of the Common Council of the City of Astoria to improve any and all streets thereof in any manner now provided; and said Common Council may improve any street by constructing retaining walls on each side thereof to retain the fill and by grading and filling the same to the established grade and by macadamizing or paving the same or in any other manner whatever, and assess the costs and expenses thereof against the property benefitted thereby as now provided by the Charter of the City of Astoria, and provided further that whenever any street over the tide lands or tide flats of the City of Astoria shall be improved by filling the same to the established grade and macadamizing or paving the same and the assessment for such improvement against a lot twenty-five feet by one hundred feet or an equivalent quantity of land shall exceed the sum of \$100.00, the owner of the property so assessed shall upon application therefor to the Common Council before confirmation of the assessment and waiver of all irregularities in the proceedings have the privilege of paying such assessment in ten equal installments, one of which shall be payable at the time the assessment is confirmed and one every two years thereafter with interest on all unpaid instalments at the rate of five per cent per annum payable annually until all installments are paid in full, which said assessments except as herein otherwise provided shall be levied and collected in the same manner as other street assessments are levied and collected and all the provisions of the charter shall be applicable to and govern the mode of proceeding for such an improvement and the levy and collection of the assessments to defray the costs thereof.

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