

Copyright Board
Canada



Commission du droit d'auteur
Canada

Ottawa, September 11, 2023

FILE 2023-UO/TI-17

UNLOCATABLE COPYRIGHT OWNER

Application by Ville de Longueuil, Longueuil, Quebec for the reproduction of five photographs of René Lévesque from the René Lévesque Fonds (BAnQ).

[1] The application targets the following five pictures, authors unknown, from the René Lévesque Fonds (BAnQ):

- *René Lévesque lors d'une assemblée du Parti libéral du Québec*, 1960, P18,S2,SS1,D14,P - ID 533160
- *René Lévesque lors du congrès du Mouvement Souveraineté-Association à Montréal*, 1967, P18,S2,SS2,SSS1,D35 - ID 534454
- *René Lévesque, Jacques-Yvan Morin, Pierre Marois et Robert Burns faisant campagne dans le comté de Taillon*, 1976, P18, S2, SS3, SSS4, D74, P2 - ID 535113
- *Camille Laurin, Pierre-Marc Johnson, René Lévesque, Claude Charron et Lise Payette le soir des élections*, 1976, P18, S2, SS3, SSS4, D74, P13 - ID 535177
- *René Lévesque*, 1980, P18, S2, SS3, SSS1, D78, P2 - ID 535114

[2] The Copyright Board finds that the application does not meet the requirements of section 77 of the *Copyright Act* (the “Act”).

[3] In this regard, subsection 77(1) of the Act states that

[w]here, on application to the Board by a person who wishes to obtain a licence to use

- (a) a published work,
- (b) a fixation of a performer’s performance,
- (c) a published sound recording, or
- (d) a fixation of a communication signal

in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board

may issue to the applicant a licence to do an act mentioned in section 3, 15, 18 or 21, as the case may be. [our underline]

[4] Subsection 2.2(1) of the Act states that

[5] For the purpose of this Act, “publication” means

(a) in relation to works,

(i) making copies of a work available to the public,

(ii) the construction of an architectural work, and

(iii) the incorporation of an artistic work into an architectural work, and

(b) in relation to sound recordings, making copies of a sound recording available to the public,

but does not include

(c) the performance in public, or the communication to the public by telecommunication, of a literary, dramatic, musical or artistic work or a sound recording, or

(d) the exhibition in public of an artistic work

[our underline]

[6] In the absence of evidence that copies of the works subject to the application were made available to the public, the Board has determined that the works have not been published in accordance with the meaning of section 2.2(1) of the Act. As the section 77 requirements are not met, the Copyright Board cannot issue a licence.

Lara Taylor
Secretary General