

1996

CHAPTER 51

An Act to amend *The Municipal Board Act*

(Assented to June 25, 1996)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Municipal Board Amendment Act, 1996*.

S.S. 1988-89, c.M-23.2 amended

2 *The Municipal Board Act* is amended in the manner set forth in this Act.

Section 14 amended

3 **Subsection 14(2) is repealed and the following substituted:**

“(2) One member of the board constitutes a quorum of the board”.

Section 16 amended

4 **Section 16 is amended:**

(a) **by renumbering it as subsection 16(1);**

(b) **in subsection (1):**

(i) **in clause (a):**

(A) **by adding “or classification” after “assessment”; and**

(B) **by adding “*The Condominium Property Act, 1993, The South Saskatchewan River Irrigation Act*” after “*The Conservation and Development Act,*”; and**

(ii) **by repealing clause (b); and**

(c) **by adding the following subsection after subsection (1):**

“(2) The board has the power and authority set out in subsection (1) with respect to the City of Lloydminster”.

New section 16.1

5 The following section is added after section 16:

“Application to Queen's Bench Court

16.1(1) Where any person believes that the assessment manual relied on by the Saskatchewan Assessment Management Agency or any municipality pursuant to *The Assessment Management Agency Act*, or any assessment order or rule of the Saskatchewan Assessment Management Agency, is inconsistent with any Act, he or she may apply to the Court of Queen's Bench on a judicial review application for a determination of the issue.

(2) On any application brought pursuant to subsection (1), the Queen's Bench Rules apply, with any necessary modification”.

Section 19 amended

6 Subsections 19(3) to (5) are repealed.

New sections 33 to 33.3

7 Section 33 is repealed and the following substituted:

“Appeal by stated case

33(1) The board may, on its own initiative, submit a stated case on questions of law or jurisdiction, arising in connection with a matter that is before the board, for a decision of the Court of Appeal.

(2) Where the board initiates referral of a stated case, the board shall:

- (a) reserve its decision until the decision of the Court of Appeal has been given; and
- (b) after the decision, determine the matter in accordance with that decision.

(3) The Court of Appeal may, if it thinks appropriate, cause any stated case to be remitted to the board for amendment and the board shall amend the stated case accordingly.

(4) On the hearing of the case, the Court of Appeal may draw any inferences that are not inconsistent with the facts expressly found by the board and are necessary for determining the question of law or jurisdiction, and shall certify its opinion to the board and the board shall make an order or decision in accordance with that opinion.

(5) After the receipt of the decision of the Court of Appeal on a stated case, the board shall notify the appellant and any interested party to the appeal of the court's decision.

“Other appeal

33.1 Any person affected by an order, decision or determination of the board may appeal to the Court of Appeal against the order, decision or determination on a question of law or on a question concerning the jurisdiction of the board:

(a) within:

(i) 30 days after the date on which the order, decision or determination is made; or

(ii) any further time, not exceeding 30 days, that a judge of the Court of Appeal may allow on an application made within 30 days after the date on which the order, decision or determination is made; and

(b) with leave of a judge of the Court of Appeal.

“Procedure

33.2(1) The appellant shall, within the period provided in subclause 33.1(a)(i), serve notice of the application for leave to appeal on all parties to the matter before the board giving rise to the appeal and on the board, and the board shall, within 20 days of being served with the notice, transmit to the registrar of the Court of Appeal a copy of the order, decision or determination appealed from, duly certified by the chairperson or secretary of the board, together with all documents filed with the board in connection with the subject-matter of the appeal.

(2) An order granting leave to appeal:

(a) for the purposes of any appeal pursuant to section 33.1 is deemed to be a notice of appeal;

(b) must state the grounds of the appeal; and

(c) must be served on the respondent or his or her solicitor within 15 days from the date of the order giving leave to appeal.

(3) Subject to the provisions of this section and sections 33.1 and 33.3, the rules of the Court of Appeal apply, with any necessary modification, to an appeal pursuant to section 33.1 as if it were an appeal from a judge of the Court of Queen's Bench, but no appeal books are required.

(4) The board may charge a reasonable fee for copying any documents required for the purposes of an appeal.

“Stay

33.3 All proceedings under an order, decision or determination appealed from pursuant to section 33.1 may be stayed by the judge hearing the application for leave to appeal, for any time and on any conditions that the judge may determine”.

Section 40 amended**8 Section 40 is amended:**

(a) by renumbering it as subsection 40(1); and

(b) by adding the following subsections after subsection (1):

“(2) Notwithstanding subsection (1), the board may rehear a financial or debt-related application pursuant to subsection 19(1) or (2) or any other Act before deciding it, or

may review, rescind, change, alter or vary a decision or order made by it respecting the application.

“(3) The authority vested in the board by subsection (2) may be exercised by the board on its own initiative and, where the board receives a written request from a local authority to review and reconsider a decision or order made by the board on a financial or debt-related application pursuant to subsection 19(1) or (2) or any other Act made by the local authority, the board shall review and reconsider the matter and may rescind, change, alter or vary its decision or order.

“(4) A request mentioned in subsection (3) shall be made within 30 days of the date of the board's decision or order.

“(5) Notwithstanding subsection (1), the board may review, rescind, change, alter or vary any decision, approval or order made by it within one year of making the decision to correct an error of a clerical nature, or:

- (a) if the board's original decision, approval or order was based on a mistake in calculation or on a clerical error;
- (b) if the board's original decision was based on incorrect information supplied to it by another person or organization; or
- (c) if the board's original decision was based on an understanding of the law that differs from the law as subsequently expressed in a ruling of the Court of Appeal or the Supreme Court of Canada.

“(6) With the consent of the parties, the board may review, rescind, change, alter or vary a decision, approval or order pursuant to subsection (5), notwithstanding that an appeal of the decision, order or approval to the Court of Appeal has been commenced or that a case has been stated”.

Section 72 amended

9 Subsection 72(1) is repealed.

Section 75 amended

10 Section 75 is amended:

- (a) by renumbering it as subsection 75(1); and

(b) by adding the following subsections after subsection (1):

“(2) Any prescribed fee for an assessment appeal filed with the appeal board:

(a) prior to the coming into force of this subsection must be paid within 30 days following the coming into force of this subsection; or

(b) after the coming into force of this subsection must be paid within the applicable period for giving notice of appeal.

“(3) Where the fee is not paid pursuant to subsection (2), the appeal shall be deemed to be dismissed and any further right of appeal extinguished”.

Transitional

11(1) Where, on the coming into force of subclause 4(b)(ii) of this Act, any appeal has been commenced pursuant to clause 16(b) of *The Municipal Board Act*, as it existed on the day before section 4 of this Act came into force, and the board has not decided the appeal, the appeal is deemed to be dismissed, but without prejudice to the right of the appellant to make an appeal pursuant to clause 16(1)(a) or to make an application pursuant to section 16.1 of *The Municipal Board Act*.

(2) Section 33 of *The Municipal Board Act*, as that section existed on the day before the coming into force of section 7 of this Act, continues to apply to:

(a) cases stated pursuant to that section prior to the coming into force of section 7 of this Act; and

(b) decisions of the board made before the coming into force of section 7 of this Act.

Coming into force

12(1) Subject to subsection (2), this Act comes into force on proclamation.

(2) Clause 4(c) of this Act comes into force on proclamation, but is retroactive and is deemed to have been in force on and from January 1, 1988.