



# Prairie Valley School Division and The Local Improvement Levy

SSBA Members' Council  
September 23, 2016

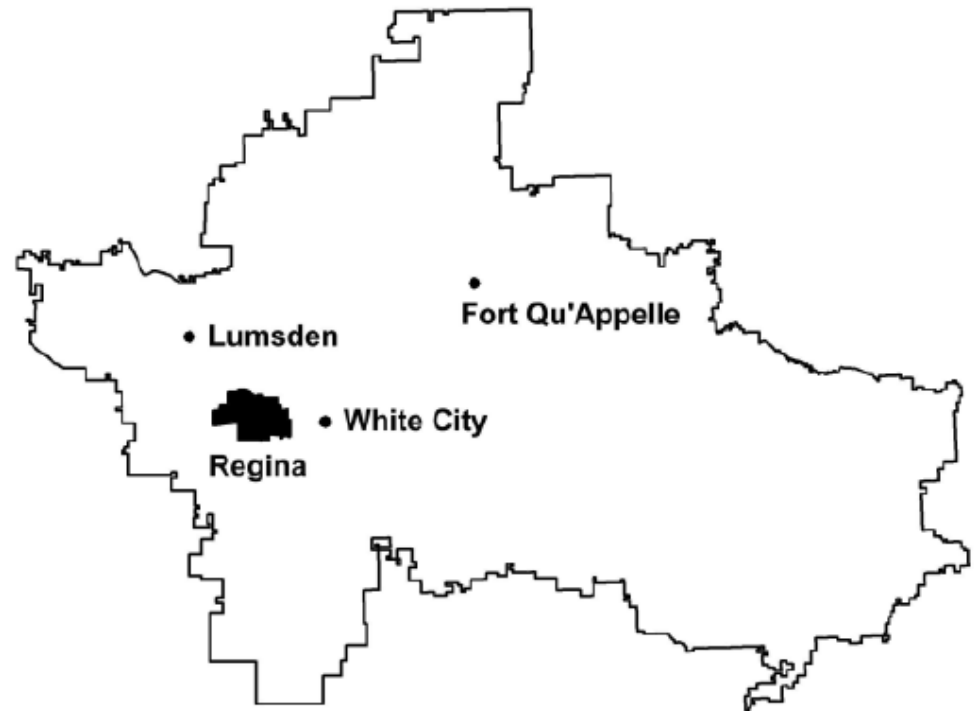
*Leadership in Learning and Life*



# Who are We?

- 8,200 students
- 39 schools in 32 communities in southeast Sk
- 27,000 square km
- 99 municipalities within the boundaries of the school division

Prairie Valley  
SD No. 208  
October 2014

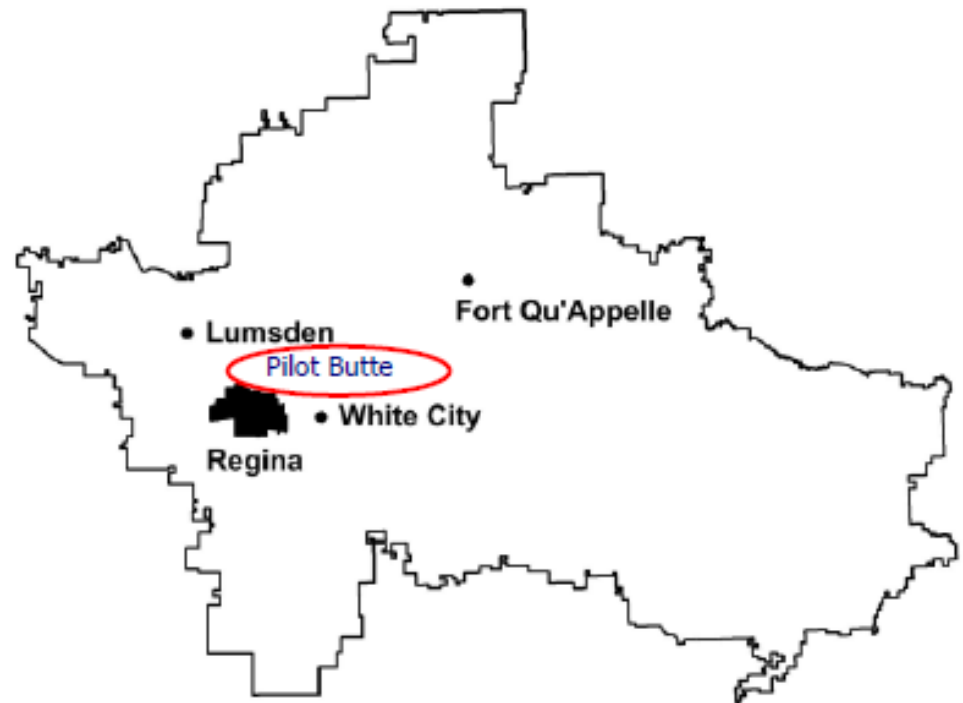


# The Town of Pilot Butte

The Town of Pilot Butte is located 18 km east of the City of Regina, between Highway 46 and the Trans-Canada Highway

~2,615 residents

Prairie Valley  
SD No. 208  
October 2014



# Pilot Butte School!





# The Issue

Prior to 2013, the Town of Pilot Butte did not have a central water supply and treatment system

- Pilot Butte School operated on a well & treatment system on school division property
- Installed in 2006 at a cost of \$275K by the school division
- Maintained by the school division

# The Issue

In 2013, the Town began installation of its Central Water Project:

- Water treatment plant
- Raw water pipeline
- Distribution system
- Sewage disposal facility
- A \$25M project:
  - \$12.9M from federal and provincial governments
  - \$12.1M from the Town of Pilot Butte

# The Issue

The Pilot Butte share came from a levy under *The Local Improvements Act* and fees:

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Frontage/Local Improvement	\$ 372/M
Service Connection Fee	\$ 2100
Line boring Fee	\$3500

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= a charge to Prairie Valley School Division of \$196K

# *The Local Improvements Act*

Municipal governments have various infrastructure financing tools....

## Under the **Local Improvement Charge**:

A municipality may recover all or part of the cost of local infrastructure extension, renewal or rehabilitation from benefiting property owners.

### *The Local Improvements Act, 1993*

*being*

Chapter L-33.1 of the *Statutes of Saskatchewan, 1993* (effective January 1, 1994) as amended by the *Statutes of Saskatchewan, 1996, c.32; 2000, c.55; 2002, c.C-11.1; 2003, c.41; 2005, M-36.1; 2008, c.33; 2010, c.N-5.2; and 2015, c.21.*

\*NOTE: Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

#### **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.



# *The Local Improvements Act*

Some properties are exempt from local improvement charges:

## **Exemption from taxation**

30(1) The following lands are exempt from taxation for local improvements:

- (a) land that is the property of the Crown, including land held by a person in trust for the Crown;
- (b) every public square, park or dedicated lands;
- (c) land used in connection with a monument erected as a war memorial; and
- (d) land specially exempted from special assessment for local improvements by statute.

School divisions are NOT listed among the exemptions

# In contrast....

*The Municipalities Act* specifically exempts school divisions from municipal taxation:

## **Exemptions from taxation**

**292(1)** The following are exempt from taxation in all municipalities:

public worship;

(f) property owned and occupied by a school division or by the Conseil scolaire fransaskois established pursuant to section 42.1 of *The Education Act, 1995*, and consisting of:

- (i) office buildings and the land used in connection with those buildings;
- (ii) buildings used for storage and maintenance purposes and the land used in connection with those buildings; or
- (iii) buildings used for the purposes of a school and the land used in connection with those buildings;

# Why object to the levy?

Some of our Board's considerations included:

- We struggle to maintain and upgrade our own infrastructure. We do not have the capacity to pay for municipal upgrades.
- The Town of Pilot Butte is one of 99 municipalities within PVSD boundaries. What if they all levied?
- The concept of taxpayers across the entire school division paying to improve municipal infrastructure in one community is troubling.

# Other considerations

- The dispute was not between the Town and the school division.
  - The Town worked within its jurisdiction to levy the charge
  - We agree that the school needs and benefits from clean water; we also think the Town benefits from the presence of the school
  - We always try to be good neighbours and partners with the municipal sector

# Other considerations

- Our dispute was with the legislation, which we believe should – but does not – specifically exempt school divisions from the local improvement levy.
  - We worked within the processes available to us to make our case.
  - Unfortunately, we were unsuccessful in our arguments but satisfied with our efforts.

# What was our recourse?

Working through SSBA legal, we navigated through various informal, quasi- judicial and judicial processes, beginning in 2013:

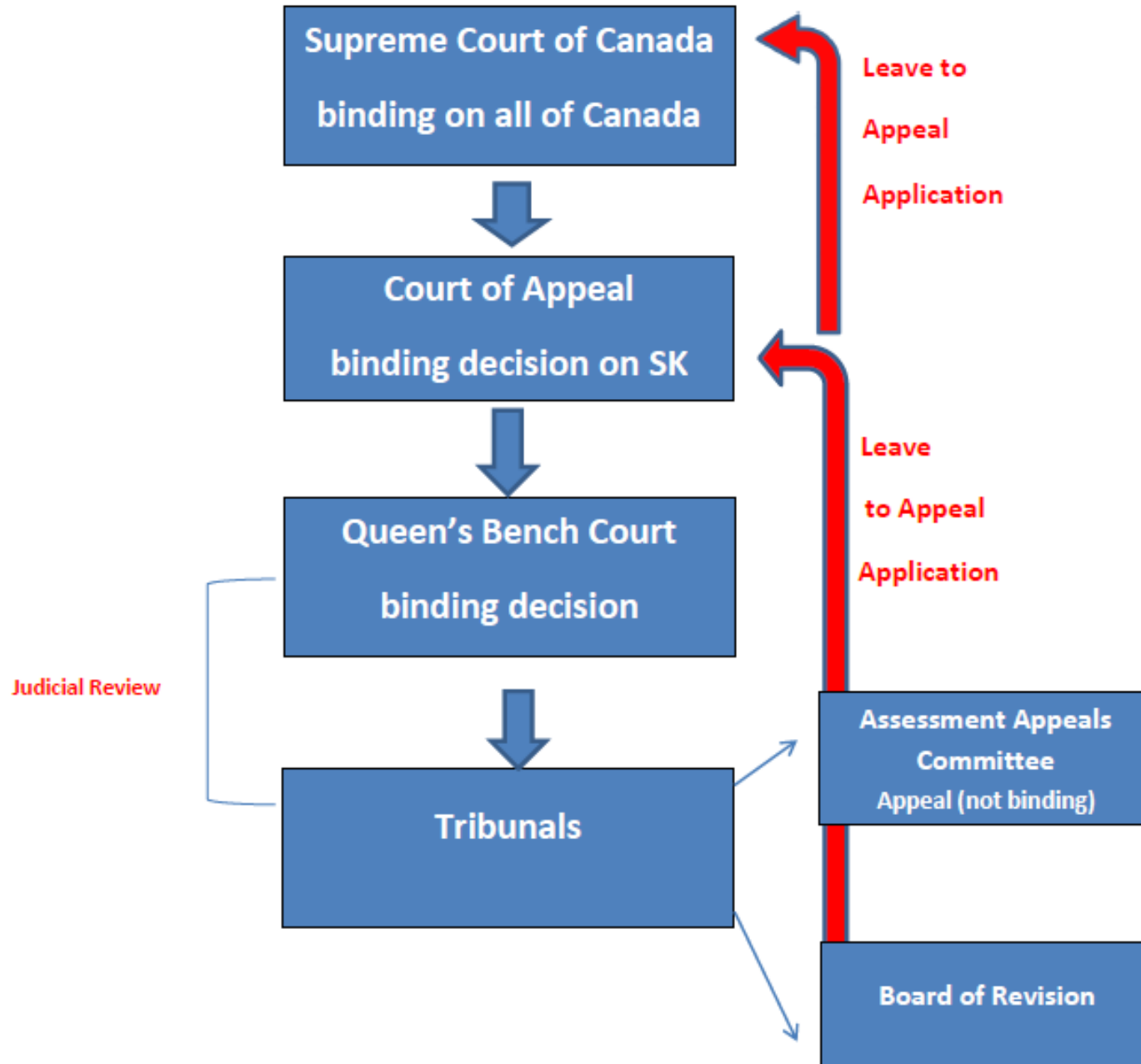




# **Prairie Valley School Division v. Pilot Butte, 2016 SKCA 103**

Presentation to  
Members' Council  
September, 2016

# CIVIL APPEAL PROCESS (SASKATCHEWAN) IMPACTING MUNICIPAL ASSESSMENTS



## ***Court of Appeal (CA) decision***

In summary, *Prairie Valley School Division v. Pilot Butte* determined:

- *The Local Improvement Act* (LI Act) contains no specific exemption from local improvement taxation for school divisions' lands
- The School Division's lands are to be assessed and taxed like any other residential or corporation lands in the municipality

## ***Issues in PVSD v. Pilot Butte***

- Are PVSD's lands property of the Crown?
- Are PVSD's lands held by a person in trust for the Crown?
- Did PVSD's lands specially benefit from the Town's work and are the special assessments equitable?
- Is the special assessment an indirect tax?

## ***Are PVSD's lands property of the Crown?***

Section 30(1)(a) states: “The following lands are exempt from taxation for local improvements land that is the property of the Crown”

The CA found that School Division lands are owned by a corporation pursuant to s. 63 of *The Education Act*, not by the Crown, a Crown entity or agent.

***Are PVSD'S lands held by a  
person in trust for the  
Crown?***

Section 30(1)(a) states: “The following lands are exempt from taxation ... including land held by a person in trust for the Crown”

The CA found that the School Division does not hold land in trust for the Crown but holds land to benefit residents.



***Did PVSD's lands specially benefit from the Town's work? Are the special assessments equitable?***

The CA found that PVSD's lands benefitted from the local improvement and the Town assessed the lands equitably. The "relevant comparator is not the nature of the land owner. It is the nature of the land."

## ***Is the special assessment an indirect tax?***

The CA determined that the special assessment was not an indirect or unconstitutional tax. The CA acknowledged that PVSD's efforts to pay the assessment might well mean that areas of the school division outside of Pilot Butte will suffer cuts in services or capital spending.

# 2014 SSBA Resolution (98% support)

14-05 BE IT RESOLVED that the Saskatchewan School Boards Association advocate to the Government of Saskatchewan to amend municipal legislation to:

- a. Clarify that boards of education are exempt from Local Improvements Assessments (taxes), subject only to inter-governmental agreements between individual boards and municipalities;
- b. Clarify that boards of education are “government” and are subject to municipal services at “government” rates and not at “corporate” rates; and
- c. Require that municipalities consult with boards of education in order to minimize the negative impact and cost of new and deteriorating municipal infrastructure on board of education lands and budgets.

# What now?

- Other school divisions are facing the potential of similar levies to pay for municipal infrastructure
- Advocate for changes to legislation to specifically exempt school division property from *The Local Improvements Act*.
  - Very strong support for a resolution in 2014
  - Communicate through the SSBA
  - Now that the court challenge is complete, pursue a legislative solution