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LEGAL AID ONTARIO  
AIDE JURIDIQUE ONTARIO

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**Phone/Téléphone:**  
416-979-1446  
**Toll-free/Sans frais:**  
1-800-668-8258  
**Fax/Télécopieur:**

May 6, 2002

[REDACTED]

Dear [REDACTED]

Re: Access to Information Request No. [REDACTED]

Thank you for your request for access to information which our office received on April 5, 2002.

We are unable to provide access to the records which you requested. You asked for a copy of the legal aid file related to your [REDACTED], in which you were the litigation guardian. We have identified two files which are responsive to your request. However, as [REDACTED] is now an adult and no longer a minor, we require [REDACTED] consent to the release of the files to you. We wrote to you on April 15, 2002, requesting that you provide [REDACTED] written consent. To date, we have not received the consent. Accordingly, this decision is being made at this time in order to comply with the time requirements of the *Freedom of Information and Protection of Privacy Act*.

The *Legal Aid Services Act* prohibits any disclosure in the circumstances of this request. That is S. 90 which provides as follows:

90.(1) A member of the board of directors, an officer or employee of the Corporation, an area director, a member of an area committee, a lawyer, a service-provider or a member, officer, director or employee of a clinic, student legal aid services society or other entity funded by the Corporation shall not disclose or permit to be disclosed any information or material furnished to or received by him or her in the course of his or her duties or in the provision of legal aid services.

(2) A person referred to in subsection (1) may disclose information or allow it to be disclosed in the performance of his or her duties or in the provision of legal aid services or with the consent of the applicant or if authorized by the Corporation.

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375 University Avenue, Suite 404,  
Toronto, ON M5G 2G1  
Bureau 404, 375, avenue University,  
Toronto, ON M5G 2G1

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The records which you seek fall within Section 90 of the Act and would, for that reason, be confidential. It does not appear that any of the exceptions set out in Subsection (2) exist in the context of this request which would allow disclosure to be made, if records exist. With ██████ consent, we could release the files to you, as ██████ is the legal aid applicant.

In addition, such information would be covered by solicitor client privilege and would also fall within the confidentiality provisions of Section 89 of the *Legal Aid Services Act* which provides as follows:

89.(1) All legal communications between the Corporation, an officer or employee of the Corporation, an area director or member of an area committee and an applicant for legal aid services are privileged in the same manner and to the same extent as solicitor-client communications.

(2) All legal communications between a lawyer, student or services-provider at a clinic, student legal aid services society or other entity funded by the Corporation, or any other member, officer or employee of a clinic, student legal aid services society or other entity funded by the Corporation and an applicant for legal aid services are privileged in the same manner and to the same extent as solicitor-client communications.

(3) Disclosure of privileged information to the Corporation that is required under this Act does not negate or constitute waiver of privilege.

The nature of the retainer is subject to solicitor-client privilege and would fall within Section 89 of the Act for that reason, in addition to Section 90.

I am responsible for the decision to refuse to disclose the records in this case. The provisions of ss.89 and 90 of the *Legal Aid Services Act*, by legislation, prevail over the *Freedom of Information and Protection of Privacy Act*: see s.103 of the *Legal Aid Services Act* and s. 67(2) of the *Freedom of Information and Protection of Privacy Act*.

You may ask for a review of this decision within 30 days of receiving this letter by writing to: The Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto Ontario M5S 2V1, Tel.: 1-800-387-0073. Our interpretation of the legislation is that, if the Commissioner were to agree that the matter was properly decided under the *Legal Aid Services Act*, then the Commissioner would not be entitled to review the substantive decision.

If you decide to request a review of this decision, please provide the Commissioner's office with the following: the file number listed at the beginning of this letter, a copy of this decision letter and a copy of the original request for information you sent to us. In addition, you must send an appeal fee to the Commissioner's office, which I understand in the case of general records is \$25.00.

Yours truly,

Ruth Lawson  
General Counsel