LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO

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

April 6, 2005

[redacted]

Dear [redacted]

Re: Access to Information Request No. [redacted]

Thank you for your request for access to information. We received your request for information on March 30, 2005.

You asked for the following information:

1) starting in 1998 all financial information surrounding LAO spending and savings.
2) All LAO salaries paid, honorarium, bonuses
3) All of the names of Committee members throughout Ontario
4) All decisions delivered by the different Area Committees throughout Ontario

At this time, I am enclosing information responsive to your requests 1 to 3, as follows:

Re 1 above – I enclose copies of the annual reports for LAO which contain information on LAO's budget and expenses. Please note that the last report, dated 2004 has not yet been tabled in the Legislature and for that reason is not considered a formal annual report at this time. Nevertheless, the budget and expense information contained in it has been approved.

Re 2 above – Our financial records indicate that for the fiscal year 2003-2004, the cost of salaries for all LAO employees, including part-time and contract employees amounted to $37,408,191.

Re 3 above – I enclose a list of the names of all the Area Committee members throughout Ontario.

Re 4 above – I am unable to comply with your request for all of the decisions made by Area Committee members throughout Ontario. In a previous access to information request, you were provided with statistical information regarding the number of decisions made. I am unable to provide you with copies of the decisions related to

individual legal aid applicants, as to do so would violate the confidentiality provisions of the *Legal Aid Services Act*.

Section 89 of the *Legal Aid Services Act* 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.
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> (2) All legal communications between a lawyer, student or service-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.
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> Section 90 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.

You requested information which would require us to disclose information about individual applicants, including their names and case information. These records are, in my view, subject to the provisions of Sections 89 and 90 of the *Legal Aid Services Act*. The information in the legal aid file is subject to solicitor client privilege and, as such, is subject to Section 89 of the Act. I have reached this conclusion based on the general principles relating to solicitor client privilege (see *Slavutych v. Baker*, [1976] 1 S.C.R. 254).

Further, the Supreme Court of Canada has held, in *Descoteaux v. Mierzwinski* (1982), 70 C.C.C. (2d) 385, 28 C.R. (3d) 289 (S.C.C.), that all information, administrative or legal, contained in the form that an applicant for legal aid must fill out is provided for the purpose of obtaining legal advice and is given in confidence for that purpose and, consequently, is subject to the applicant's fundamental right to have such communications kept confidential pursuant to solicitor-client privilege. The fact that the information is provided to legal aid in confidence brings the information within Section 90 of the *Legal Aid Services Act, 1998*. The fact that the information is subject to solicitor-client privilege brings the information within Section 89. The law with

respect to solicitor client privilege makes clear that the privilege is that of the client, not the solicitor. In view of this conclusion, we would require the consent of the named person in order to confirm or deny whether that person is in receipt of legal aid assistance. This is supported by the decision of the Information and Privacy Commissioner in Order PO-2083.

Please be aware that it is the position of Legal Aid Ontario that 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*.

I trust this information is of assistance to you. I am responsible for the decision to grant you access to part of these records. You may ask for a review of this decision within 30 days of receiving this letter by writing to: The Information and Privacy Commission/Ontario, 2 Bloor Street West, Suite 1400, Toronto Ontario M4W 1A8, Telephone 1-800-387-0073.

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 our institution.

In addition, you must send an appeal fee to the Commissioner's office. That appeal fee for other than personal information is $25.00.

Yours truly,

Ruth Lawson
General Counsel