

February 2, 2009



Dear 

Re: Access to Information Request 

Thank you for your access to information request, which was received in our office on November 13, 2008. The fee of \$5.00 required for access to information requests was received in this office on January 9, 2009. You requested minutes of, records of decision, agendas and materials distributed at or for the most recent meeting of the Legal Aid Ontario Board of Directors, including any draft or interim versions if final versions are not yet complete. In a subsequent telephone conversation with this office, you confirmed that you were seeking access to the above information in relation to the Board of Director's meeting held immediately prior to our receipt of the \$5.00 fee. That meeting was held in November, 2008.

Legal Aid Ontario has determined that records exist which are responsive to this request. These records consist of 154 pages. I have concluded that The *Legal Aid Services Act* prohibits any disclosure in the circumstances of this request.

Section 90 of the *Legal Aid Services Act* 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 consists of material furnished to or received by members of the Board of Directors in the course of their duties. As such, these records are, in my view, subject to the provisions of Section 90 of the *Legal Aid Services Act*. I have determined that the provisions of 90 (2) which allow for the disclosure of confidential information in specific circumstances are not met in this case.

Please be aware that it is the position of Legal Aid Ontario that section 90 of the *Legal Aid Services Act*, by legislation, prevails 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*.

In the alternative, Legal Aid Ontario claims specific exemptions to portions of the records, which are set out in the attached Schedule A to this correspondence. As these exemptions relate to the *Freedom of Information and Protection of Privacy Act*, these exemption claims are suggested as alternate only, in view of the decision in this letter with respect to the availability of records under s.90 of the *Legal Aid Services Act*.

I am responsible for the decision to deny you access to the 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 information other than personal information is \$25.00.

I regret that I am unable to provide the requested information.

Yours truly,

Robert W. Ward
President/CEO