

1 Boast Street
Eshowe
29 June 2015

Avie Naidoo,
Audit and Risk Executive
Legal Aid South Africa
29 De Beer Street
Braamfontein
Johannesburg

Dear Mr Naidoo

THE 'HIGH RISK TO LASA' OF THE CONTINUING
'MISINTERPRETATION AND MISAPPLICATION' OF PAIA

1. I enclose a copy of my evenly dated letter to CLE Patrick Hundermark.
2. I write to inform you of LASA's current exposure to what looks like an inevitable application to the Pietermaritzburg High Court for an order compelling its compliance with the Promotion of Access to Information Act 2 of 2000 ('PAIA').
3. In November 2012 the SAHRC gave your national office lawyers a special remedial lesson on how to implement the Act, on account of my repeated complaints about LASA's persistent illegal refusal of my PAIA requests in 2010/11 and false section 32 reporting about it afterwards.
4. The SAHRC's report of the lesson records your attorneys' frank admission that they felt 'overwhelmed by the requirements of the legislation' due to their 'lack of application based knowledge' and that they had 'challenges complying with PAIA. ... LASA compliance history was flagged with participants and most responded to the reporting of LASA as non-compliant to Parliament with concern' – namely the 'reporting of the Brink saga (you may be familiar with it – Patrick [Hundermark] is) to Parliament', as its PAIA Unit director mentioned in an earlier email to the Open Democracy Advice Centre on 12 July 2011, copying Hundermark in.

5. The training report records further that 'LASA has identified the need to have a clear budget dedicated to PAIA compliance and implementation', and that it had 'undertaken to review decisions which may not have had justification under PAIA and to create guidelines within the organisation to ensure misapplication does not recur' in the handling of PAIA requests like mine, particularly since 'misinterpretation and misapplication was identified as being high risk to LASA', having regard to 'the status of PAIA as a fundamental right' (sic), a matter 'reiterated and emphasized at different points of the training', as was 'the need to break the culture of secrecy which shrouds the public service in general' and LASA in particular, evinced by its persistent illegal refusals of my PAIA requests, about which I'd repeatedly complained to the SAHRC.
6. Having evidently been unable to learn from the SAHRC's special lesson on how PAIA works and the importance of complying with it, and contemptuously dishonouring the undertakings it gave the SAHRC, LASA went right on the following year to illegally refuse nearly all my further PAIA requests in November 2013. (The very few records furnished me categorically prove that NOE Brian Nair's perjured himself on two scores in his evidence at the trial of my labour claim in Durban in mid-2013.) The upshot was I had to sue to compel. The matter is still pending in the Eshowe Magistrate's Court.
7. LASA has again recently illegally refused further PAIA requests made in 2014. My letter to Hundermark will fill you in. I'm now looking to bringing an application to compel in the Pietermaritzburg High Court, so the judgment against LASA regarding its persistent, repeated, lawless, recidivist PAIA delinquency can be reported in the legal annals.
8. If I have to sue – and in my papers I intend recounting for the judge the complete history of LASA's persistent, repeated illegal refusal of my PAIA requests since 2010 – LASA will be at 'high risk' of severe reputational damage.
9. As Audit and Risk Executive, it's your job to take whatever measures necessary to avert such 'high risk'. I suggest you consult one of LASA's Senior Litigators for advice on whether sections 7 and 45 justify the refusal of my PAIA requests, and whether the couple of other grounds advanced by Nair and Mtati do too. On their own version, your corporate services attorneys are clueless when it comes to PAIA, and they evidently suffer from learning difficulties.

10. Please be advised that if you don't take the necessary action to avert this 'high risk' to LASA, and I need to sue, this letter will be included among my papers for the information of the judge as your deliberate dereliction of your professional responsibilities to LASA, causing it enormous avoidable harm.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Anthony Brink', written in a cursive style.

ANTHONY BRINK

Cc: Nonhlanhla Mgadza, Chairperson: Board Audit and Risk Committee