



Date: 13 February 2015

Advocate Anthony Brink;
1 Boast Road;
Eshowe
3815

Dear Advocate Brink,

**REQUEST BY ADVOCATE BRINK FOR RECORDS OR INFORMATION IN TERMS
OF PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000: 17
NOVEMBER 2014**

I have considered your request for the records in terms of the Act as clearly set out in the Annexure to the Form A of your letter of 17 November 2014.

I note with concern, however, that you continue to thread on the path of making demeaning and defamatory comments which are not supported by any facts. I reserve my rights in this regard and will deal with those comments at the appropriate forum.

Just for the record, I confirm your consent to a 30 days extension in terms of section 26(1) of the Promotion of Access to Information Act 2 of 2000(hereinafter referred as the "Act) to reply to your request.

I further wish to put on record that where my response relates to a question of law, such response is given to you on the basis of the advice of my legal representatives, which I verily accept.

Your voice. For justice.

I now reply to your request as follows:

No	Record requested	Reply
1	The minutes kept by HRE Amanda Clark of the second round interviews held for some Regional Operations Executives posts as alleged by Legal Aid SA's single witness Brian Nair at the trial of case No.LC D529/11.	This request cannot be acceded to in terms of section 7 as it relates to the evidence in the matter pending before Court.
2.	The recommendations made by the selection panel of candidates for Bloemfontein, CapeTown, Johannesburg, Mafikeng, Port Elizabeth Senior Litigator posts and for the Pietermaritzburg Senior Litigator post when it was first advertised and for the Kimberly Senior Litigator Post if a recommendation was made showing, the names of the shortlisted and interviewed candidates, the recommended candidates and members of the selection panels.	This information relates to third parties and falls within the ambit of section 37 read with section 47 and 48 of the Act
3.	In respect of Bloemfontein,CapeTown,Johannesburg, Mafikeng, Port Elizabeth and Pretoria Senior Litigator posts the emails sent by ROE to Nair or by RHRMS to Clark, forwarded to Nair covering the selection panel's Recommendations and the CVs of the recommended candidates as well as CV's of other candidates who were shortlisted and interviewed by the selection panel but not recommended by them in compliance with the specific requirements of the second round interview panel to send all CVs and not only those of recommended candidates since it was the practice of the second round panelists to consider if there was anyone else they would be interested to interview.	This information relates to third parties and falls within the ambit of section 37 read with section 47 and 48 of the Act
4.	The email that Kwazulu Natal ROE Vela Mdaka sent to Nair or RHRM Baboo Brijlal sent to Clark, forwarded to Nair covering the selection panel's recommendation of Legal Aid SA attorney Ashok Kaloo for the Pietermaritzburg Senior litigator Post and his CV as well as the CVs of the other candidates who were shortlisted and interviewed by the selection panel for the post but not recommended by it, when it was first advertised.	This records was requested during the discovery process in the trial court for which the matter is still pending. Therefore it is excluded in terms of section 7 of the Act.
5.	The email the Free State and North West ROE sent to Nair or its RHRM sent to Clark, forwarded to Nair covering the selection panel's recommendation of a Candidate for the Kimberly senior litigator post- if a recommendation was made and his/her CV as well as the CV's of the other Candidates who	This requests relates to the evidence and the records already before court, which matter is still pending. Therefore it is excluded in terms of section 7 of the Act

	were shortlisted and interviewed by the selection panel for the post but not recommended by it.	
6.	In respect of the Bloemfontein, Cape Town, Johannesburg, Mahikeng, Port Elizabeth and Pretoria Senior Litigator posts, Nair's email to the five members of the second round panel, forwarding the selection panel's Senior Litigator candidate recommendations in each case and the CVs of all candidates who were shortlisted and interviewed by the selection panels including CVs of all those candidates that were not recommended, in which emails Nair asked the five members of the second round panel to advise him as to who they would like to see and interview. As to the identities of the so called second round interview panel see the Appendix hereto, paragraph (96).	The request relates to the evidence in a matter pending before Court and is excluded in terms of section 7 of the Act and secondly the information relates to third parties and falls within the ambit of the provisions of section 37, 47 and 48 of the Act.
7.	In respect of the Pietermaritzburg senior Litigator Post when it was first advertised, Nair's emails to the five members of the second round panel forwarding the second round panel forwarding the selection panel's recommendation of attorney Kaloo, his Cv and the CVs of those candidates who were not recommended in which emails Nair asked the members of the second round panel to advise him as to who they would like to see and interview.	This is part of the records for the matter still pending before Courts and is excluded in terms of section 7 of the Act
8.	In respect of the Kimberly Senior Litigator Post Nair's emails to the five members of the second round panel forwarding the selection panel's recommendation if one was made of the recommended candidates and his CV and the CVs of those candidates who were not recommended in which emails Nair asked the members of the second round panel to advise him as to who they would like to see and interview.	This is part of the records for the matter still pending before Courts and is excluded in terms of section 7 of the Act
9	In respect of the Bloemfontein, Cape Town, Johannesburg, Mahikeng, Port Elizabeth and Pretoria Senior Litigator's posts, the records of the second round panel members to Nair's enquiries as to which Senior litigator Candidates they wished to see and interview, notifying as to who they would like to see and interview including candidates who had been shortlisted and interviewed by selections panel but not recommended by them	The request relates to the evidence in a matter pending before Court and is excluded in terms of section 7 of the Act and secondly the information relates to third parties and falls within the ambit of the provisions of section 37, 47 and 48 of the Act.
10.	In respect of the Pietermaritzburg Senior Litigator's posts, when it was first advertised, the records of the second round panel members to Nair's enquiries as to which Senior litigator Candidates they wished to see and interview, notifying as to who they would like to see and interview including candidates who had been shortlisted and interviewed by selection panel but not recommended by it.	This requests forms part of the discovery notice at the trial court and accordingly is excluded in terms of section 7 of the Act

11.	In respect of the Kimberly Senior Litigator's posts, when it was first advertised the records of the second round panel members responses to Nair's enquiries as to which Senior Litigator Candidates they would like to see and interview, notifying as to who they would like to see and interview besides the recommended candidate – if a recommendation was made notifying him as to whom they would like to see and interview including candidates who had been shortlisted and interviewed by selection panel but not recommended by it.	This information relates to third parties and accordingly the provisions of sections 37, 47 and 48 are applicable.
12.	In respect of the Bloemfontein, Cape Town, Johannesburg, Mahikeng, Port Elizabeth and Pretoria Senior Litigator's posts, the Kimberly senior Litigator Post- if a recommendation was made and the Pietermaritzburg Senior Litigator's post, when it was first advertised, records of the invitation to attend second round interviews sent to the senior Litigator candidates recommended by the selection panels and the invitation to attend second round interviews also sent to any candidates who had been shortlisted and interviewed by the selection panels but not recommended by them on the basis that the second round interview panel had indicated to Nair it would like to see and interview them too.	This information relates to third parties and accordingly the provisions of sections 37, 47 and 48 are applicable
13.	The minutes of the meetings of second interview panel on three separate occasions on which it has sat to select prospective candidates for appointment as Senior litigators at which (i) the current six incumbent Senior litigators in Bloemfontein, Cape Town, Johannesburg, Mahikeng, Port Elizabeth and Pretoria were chosen,(ii) Legal Aid SA attorney Ashok Kaloo was rejected and (iii) one other person besides Kaloo that was recommended as possible appointable was also rejected because we did not like him/her	This information relates to third parties and accordingly the provisions of sections 37, 47 and 48 are applicable
14.	The record of Mlambo JP's communication to executive management of his brain child of a second round of interviews referred to in Legal Aid SA's original response to the original statement of claim in case LC D529/11.	The request relates to the evidence in a matter pending before Court and is excluded in terms of section 7 of the Act

Yours Faithfully,

Advocate Brian Nair

Deputy Information Officer