

IS THERE AN INCREASE IN PUBLIC INTEREST REMEDIES ORDERED BY THE TRIBUNAL?

Yes. More public interest remedies are being ordered by the Tribunal since the *Code* was amended to give applicants direct access to the Tribunal. This is simply because there are more decisions being released.

Information on the public interest remedies ordered by the Tribunal in the past three years is available by reviewing its decisions on CanLii.

Information about public interest remedies prior to the 2006 amendments is available, to a limited extent, in the Commission's Annual Reports on its website. For example, in 2006/7, the Commission's Annual Report states that it proved discrimination in 10 decisions released by the Tribunal and summarizes 7 decisions that achieved significant public interest remedies. In 2005/6, the Annual Report reports 11 decisions finding discrimination and summarizes 3 decisions with significant public interest remedies. In both years, more of the successful decisions may have included a public interest remedy that was not reported in the Annual Report.

The Centre reviewed decisions on the merits released by the Tribunal in 2011 in its new applications stream. Public interest remedies were ordered in 67% of these decisions. There were 24 decisions finding discrimination, of which 16 ordered public interest remedies. In addition the Tribunal issued 256 final decisions in the transitional cases stream. Although the Centre has not conducted a review of these decisions, to our knowledge, public interest remedies have been ordered in a smaller portion of this group of decisions, which dealt with complaints initially filed with the Commission.

Examples of public interest remedies achieved by the Centre include orders:

- requiring an employer to take human rights training provided by the Commission;
- requiring a service provider to retain a qualified consultant to review practices and make recommendations concerning accommodation of children with disabilities in all programs;
- requiring a police service to develop training materials for the investigation of harassment, discrimination and reprisal complaints in consultation with a human rights expert; and
- requiring an employer to retain an independent human rights expert to develop a human rights policy and a procedure for harassment complaints.

IF A VICTIM OF DISCRIMINATION IS OFFERED A SETTLEMENT WITH NO POSSIBLE PUBLIC INTEREST SETTLEMENT, CAN THE CENTRE REFUSE TO ALLOW THE SETTLEMENT?

No. The Centre acts for individual human rights claimants and must take instructions from our individual clients. We always recommend public interest remedies to our clients and in the vast majority of cases, our clients want to achieve results that will prevent other incidents of discrimination. The Centre also consults with advocacy groups to target public interest remedies that will have the broadest impact.

The Centre recommends public interest remedies but must always take final instructions from the individual who has suffered the impact of the discrimination. If our client decides to accept a financial settlement without a public interest remedy, we are required to accept the instructions of our client. The person who has experienced the discrimination is entitled to make this decision under the legislation.

Under the former system, the Commission could refuse to consent to a settlement in the absence of a public interest remedy, even if this resulted in the withdrawal of the financial offer to the victim of discrimination.

DOES THE CENTRE NEGOTIATE SETTLEMENTS FOR PERSONS WHO HAVE SUFFERED DISCRIMINATORY TREATMENT?

Yes. The Centre has settled 309 human rights claims in the first 9 months of the current fiscal year (April 2011 to December 2011).

The Centre achieved 350 settlements in 2010/11 and 258 settlements in 2009/10.

The Centre owes a duty of confidentiality to its clients and could not release detailed information on settlement agreements without the consent of both our client and the other party. The Centre attempts to negotiate non-confidential settlement terms and has had some success in doing so.

For example, the Centre was able to work with the City of Sarnia to obtain widespread media coverage of amendments to its bylaws to remove discriminatory zoning affecting people with disabilities. The amendments resulted in the withdrawal of an application filed by the Centre against the City.

Another example is the application of John Pruyn, a disabled gentleman assaulted by police during the G-20 events. The settlement agreement negotiated with the police allowed Mr. Pruyn to continue to speak publicly about his mistreatment by police.

We include anonymized information on our settlement agreements in our Annual Reports. See the 2009/10 Annual Report at <http://www.hrlsc.on.ca/en/AnnualReports.aspx>.

HOW MANY INQUIRIES FROM THE PUBLIC DID THE CENTRE RESPOND TO IN EACH OF ITS FIRST THREE YEARS OF OPERATION?

June 30, 2008 to June 30, 2009	21,524
June 30, 2009 to June 30, 2010	25,420
June 30, 2010 to June 30, 2011	25,288
TOTAL	72,232

Not all inquiries are received by in-coming telephone call. The Centre had a telephone system for its first 2 ½ of operation that recorded every telephone call to our telephone advice lines. The total number of answered incoming calls over the same period was 63,318. During the same period, 54,486 calls were abandoned before they could be answered by our intake staff. Until recently, the Centre had limited ability to analyze data on the abandoned calls.

However, based on data from answered calls, approximately 40% of abandoned calls were not inquiries about discrimination, but were either seeking general information or legal advice about a non-human rights issue, or were respondents (employers, landlords, service providers). To a significant extent, calls outside our mandate have curtailed our ability to answer calls from people seeking legal advice about discrimination.

The rate of abandoned call for each year since opening is as follows:

June 2008 to June 2009	48% abandoned
June 2009 to June 10	44% abandoned
June 2010 to June 2011	47% abandoned

The Centre implemented a new telephone system in November 2011. Callers now have several options in addition to entering the queue for telephone advice. The information from our new telephone data system is instructive. Less than 50% of callers choose to enter the queue to get legal advice about discrimination. A significant number of callers hang up after listening to recorded legal information or go to our staff directory or

identify themselves as respondents before abandoning their call. We are now confident that we can more accurately assess a more accurate response rate to callers who are seeking legal assistance in relation to a human rights infringement.

Our average response rate since the introduction of our new phone system in November is 71%. In the first four 4 weeks of this year, 77% of calls were answered.

ANNUAL REPORTS

Under the *Code*, the Centre, unlike the Commission, is required to submit annual reports to the Minister and has no authority to release reports to the public. Our audited financial statements are in our annual reports.

We posted our 2009/10 Annual Report on our website as soon as we received notice that it had been tabled in the legislature and could be released.

<http://www.hrlsc.on.ca/en/AnnualReports.aspx>

We have not provided copies of our Annual Reports to Andrew Pinto but sent him the link to newly-posted 2009/10 Annual Report on January 23, 2012.

PROVISION OF LEGAL SERVICES

The Centre provides legal services to every applicant whose claim is supported by any evidence that could support a Tribunal finding in their favour. We do not assess credibility of a potential applicant at the pre-application stage, in the sense of assessing whether they appear to be telling the truth. However, if in providing services, we find that the applicant's witnesses or documents contradict the applicant's own story, for example, we may decline to provide further services, including representation.

PROVIDING LEGAL SERVICES TO SELF-REPRESENTED APPLICANTS

The Centre provides legal representation to applicants at all stages of the human rights process and also provides legal services to applicants who represent themselves before the Tribunal. Often an application will receive legal assistance from the Centre to file their application and then full representation at mediation and/or at their hearing.

The factors that are considered in deciding level of service are set out in our Service Eligibility Guidelines posted on our website. Here is the link:

<http://www.hrlsc.on.ca/en/EligibilityGuidelines.aspx>.

Our experience is that the Tribunal's process is not unduly technical and that the rules are regularly adapted to meet the needs of unrepresented parties on both sides.

DOES DATA SHOW THAT APPLICANTS WITHOUT LAWYERS WERE SUCCESSFUL AT THE TRIBUNAL?

Yes, the reported decisions of the Tribunal show that applicants without lawyers are winning cases at the Tribunal.

Tribunal decisions are available at: <http://www.canlii.org/en/on/onhrt/index.html>.

A review of Tribunal decisions on CanLii demonstrates that unrepresented applicants are successful in proving discrimination at the Tribunal. The Centre did a preliminary review of final Tribunal decisions on the merits over a 10 month period in 2010 and found that 35% of applicants who successfully proved discrimination were self-represented. All of the self-representing applicants had received assistance from the Centre (except those who were themselves lawyers), ranging from summary legal assistance to assistance in drafting submissions or preparing evidence.

In decisions where the applicant failed to prove discrimination at a hearing on the merits, 40% had not contacted the Centre at all. Of the 60% who had accessed our services, all had received a negative legal assessment of the merits of their claim.

As is the case with any free legal service, like a community legal clinic, the Centre cannot appropriately use its resources to provide ongoing legal services to an individual once it has determined that his/her application does not have a factual or legal basis for proving discrimination at the Tribunal.

DUTY COUNSEL

The Centre operated a pilot project in 2009, placing duty counsel 3 days per week at the Tribunal's Toronto location to assist applicants at mediations. Our lawyers acting as duty counsel were able to achieve a settlement rate above the Tribunal average but the project was cancelled so that staff could provide more representation at hearings.

PARALEGALS

The Centre's paralegals have not represented applicants at any Tribunal hearings to date. On two or three occasions over the past three years, paralegal staff have represented applicants at mediations. Legal clinics regularly use non-lawyers to provide representation at hearings. The Centre would like to expand its paralegal staff to enable paralegals to provide representation at mediations and, in appropriate cases, at hearings.

EXPERT WITNESSES

The Centre has envelope funding and no cap on fees for expert witnesses. Our budget allocates \$23,000 for expert fees, including medical reports. To date, the most we have spent in one year is 20,391. We would be able to redirect funds to this budget line if needed.

COMPLAINTS ABOUT OUR SERVICE

Over the past 3 ½ years, over 80,000 individuals have received services from the Centre and only two individuals have complained to our Board of Directors about the level of service provided by the Centre. In both instances, the Board determined that the staff had appropriately applied the Centre's policies in declining to provide further or fuller services to the individual. Neither individual meet with our Board in person.

The Centre provides service to applicants across the province and, for this reason alone, it would not be feasible to provide for in-person meetings as part of our complaint process.

For more information about our complaints policy, go to our website at:

<http://www.hrlsc.on.ca/en/PublicComplaintPolicy.aspx>

BOARD OF DIRECTORS

Raj Anand, Chair – Appointed April 9, 2008 until October 19, 2010.

Gina Papageorgiou – Appointed April 9, 2008 until April 8, 2013.

Mary Gusella – Appointed September 17, 2009 until November 24, 2014.

Nancy Gignac – Appointed September 17, 2009 until November 24, 2014.

Patrick Nadjiwan – Appointed September 17, 2009 until November 24, 2014.

Jim Thomas – Appointed December 2, 2009 until December 1, 2014.

Raj Dhaliwal – December 16, 2009 until December 15, 2011.

Patrick Case, Chair – Appointed October 20, 2010 until October 19, 2012.

All HRLSC Board members are part-time, paid on a per diem basis, in accordance with Ontario government directives. Rates are available at:

<http://www.pas.gov.on.ca/scripts/en/BoardDetails.asp?boardID=141640>

Hours of work vary by member. All members who attend full board or committee meetings, either in person or by teleconference or video conference, may claim their per diem rate.

If a member (including the Chair), conducts work on behalf of the Board that is not a meeting, they may claim their per diem rate at 50% for work under 3 hours, and 100% for work over 3 hours (in accordance with Ontario government directives).

Full Board Meetings:

December 8, 2009

January 25, 2010

February 5, 2010

March 1, 2010

April 27, 2010

June 23, 2010

September 17, 2010

November 27, 2010

December 7, 2010

January 19, 2011

March 30, 2011

May 18, 2011

September 15, 2011

November 16, 2011

Committee Meetings:

March 8, 2010 (Governance)

May 12, 2010 (Governance)

June 3, 2010 (Governance)

June 8, 2010 (Strategic Planning)

July 20, 2010 (Strategic Planning)

August 26, 2010 (Strategic Planning)

October 13, 2010 (Strategic Planning)

December 16, 2010 (Ad-hoc: Complaint)
August 9, 2011 (Governance)

There were no Board minutes prior to December 2009. The Board has not made a decision with respect to the AODA Alliance request for copies of the minutes of its meetings.

Hello David:

This is further to the materials sent to you on January 27th, in response to your email below dated January 23rd. I will try to answer a few specific questions that you have suggested were not fully not answered in our previous response.

Question 1b). See previous response. Regarding our financial statements, please note that our audited financial statements for 2009/10 are now posted on our website with our annual report. Please let me know if you have any trouble accessing this. The financial reports are completed by an outside auditor and come to us in PDF format only.

Question 7c). Our experience is that applicants who are unhappy with a denial of further services will access our complaint process, which is always brought to their attention. Many applicants with significant resources (including doctors, lawyers and other professionals) accept limited legal services from the Centre and are satisfied that the Centre must prioritize full service for applicants with fewer resources. Another situation is when an applicant does not accept our legal assessment of the strengths and weaknesses of their application, or how it should be argued. In these instances, the client generally does not want us to provide further legal services. These kinds of scenarios are to be expected when an agency is offering free legal services across the province to thousands of people every year.

Question 12. The number of unrepresented applicants at summary hearings is information which should be available by reviewing decisions on CanLii. The Centre responds to applicants facing summary dismissal through an expedited process that ensures that the applicant meets with one of our lawyers in time to respond within the time frames. If that is not possible, we assist individual to get an extension to allow him or her to meet with our lawyer.

Question 14. This is not a number that we can produce. Our general practice is to enter into stage-by-stage retainers even when it is entirely likely that the Centre will remain retained through the whole process. We have never had a client decline to commence the application process on the basis that he or she was not guaranteed legal representation throughout the process. If the Centre is launching an application to challenge systemic practices, we would generally be committed from beginning to end.

Question 15. We have received one-time funding from MAG in each of the past two fiscal years. In 2009/10, we received \$350,000 to cover the costs of purchasing services and building an electronic case management system. In 2010/11, we received \$100,000 to cover the cost of purchasing and implementing a new telephone system, including intake services.

Questions 16. We did not go on the record at the HRTO for any individuals in respect of a transitional case based on a Commission complaint. I understand that on one occasion, we acted for an individual who had a new application that had overlapping issues with a transitional application. We also gave limited summary legal advice to a number of transitional applicants. On the other hand, the Centre has acted several times for successful transitional applicants in taking legal steps to enforce their successful decisions from the HRTO. We have also provided enforcement services for complainants whose complaints were referred by the Commission, whether or not the Commission retained carriage of the referred complaint at the HRTO.

Question 17. This information is available in our 2009/10 Annual Report on our website. Each year, less 50% of individuals receiving service come from the GTA. For example, in 2009/10, 13% of individuals accessing our service came from Eastern Ontario; 26% came from Southwestern Ontario; 13% came from Northern Ontario. Over the past 3 years, we have had staff in St. Catharines, Sault Ste. Marie, Thunder Bay, Sarnia, Ottawa and Guelph. We currently have a lawyer in Windsor, Guelph, Thunder Bay, Ottawa and Sault Ste. Marie. The lawyer in Sault Ste. Marie is on maternity leave and will be returning later this year. All out-of-Toronto lawyers are housed in office space rented from the a local community legal clinic. Our Toronto-based lawyers travel to mediations and hearings across the province.

Question 18. The Commission has intervened in our discriminatory zoning challenge. We are acting for an advocacy group called the Dream Team on behalf of its members who are individuals living with mental health challenges.

Question 19. The Centre will not comment on the Commission's work in fulfilling its mandate under the Code.

Question 20. The Centre has not asked the Commission to launch Commission-initiated applications.

Question 21. We expect that any information that we provide to the Pinto Inquiry will be part of the public record. No decision has been made by the Board about otherwise releasing our submission to the public. The package of material provided to you in December and January will form the basis for our submissions to Mr. Pinto.

Question 22. As part of our strategic planning process in 2010/11, the Centre conducted external consultations including a survey 61 community and stakeholder organizations. An outside consultant undertook key informant interviews. We also conducted a client satisfaction survey. For more information, see our Strategic Plan at: <http://www.hrlsc.on.ca/en/CorporateInfo.aspx> <<http://www.hrlsc.on.ca/en/CorporateInfo.aspx>> .

The HRLSC has not established service priorities in terms of ground of discrimination or social area. As you can see from the Strategic Plan, priority is given to providing legal assistance to members of marginalized communities and to individuals who would be most disadvantaged in self-advocating for equality rights. One of our strategic goals is to identify and take forward test cases that will have a broad positive impact on the equality rights of historically disadvantaged groups.

Question 23. The Centre did not receive any special funding to cover the legal award of costs referred

to in this question. We do not as a matter of consistent practice advise a potential applicant about the possibility of an adverse cost award if he or she is successful at the Tribunal and subsequently loses a judicial review application brought by the respondent. If we do so, it would have an undue impact on applicants.

We would invariably advise a client of the possibility of an adverse costs award if and when they face a judicial review application. We would at that point be in a position to advise them of the risks of losing the judicial review and also discuss with them whether the Centre is able to pick up an adverse costs award. If the Tribunal has made an error in some aspect of the decision that will likely mean a reversal in part by the reviewing court, and the application being sent back to the Tribunal, for example, it may be appropriate in some circumstances for the applicant to avoid risking a costs award by not appearing on the application. But every case will be different.

Okay, that is it. I believe that we have made our best efforts to answer all your questions.

Regards

Kathy

Kathy Laird

Executive Director

Human Rights Legal Support Centre

-----Original Message-----

From: M. David Lepofsky _____
Sent: January-23-12 10:05 AM
To: Kathy Laird;
Subject: Letter to Kathy Laird

ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT ALLIANCE

1929 Bayview Avenue

Toronto, Ontario M4G 3E8

New Email Address: aodafeedback@gmail.com <<mailto:aodafeedback@gmail.com>>

Visit: www.aodalliance.org <<http://www.aodalliance.org>>

January 23, 2012

Kathy Laird, Executive Director,

Human Rights Legal Support Centre of Ontario

180 Dundas Street West, 8th Floor

Toronto, Ontario

M7A 0A1

Via Email _____

Dear Ms. Laird,

Re: Independent Review of Bill 107's Privatizing Human Rights Enforcement in Ontario

Thank you for the information you provided in final form on January 9, 2012, in response to our November 14, 2011 request, on the operations of the Human Rights Legal Support Centre. Thank you as well for the link you provided on January 18, 2012 to your Centre's 2009-2010 annual reports.

We write to ask for further information as a result of our review of the information you have provided so far. As we continue to study the information you have sent us, further requests for information may come to light. We want to get this request to you as soon as possible, given the very tight time lines that the Pinto Review has imposed on public participation in this mandatory Review of Ontario's enforcement of human rights.

Could you please provide the following information in an accessible format as soon as possible:

1. Some of your January 9, 2012 answers to our requests for information about the Centre refer to the Centre's annual reports. We asked for these back in our November 14, 2011 letter to you. To date, you have only provided your annual report for 2009-2010. We understand from you that before this, the Government had not made any of them public.

a) Please provide all the Centre's reports to us now, as well as any annual financial statements.

b) Why has the Centre not promptly made these annual reports and annual financial statements public each year, as an agency funded by the public?

c) Has the Centre or the Government given the Pinto Review any of these annual reports or financial statements?

2. The Centre's January 9, 2012 disclosure to us states: "In its first three (3) years of operation, from June 20, 2008 to June 30, 2011, the Centre answered 72,200 inquiries from members of the public."

a) What is the breakdown of calls per year?

b) What are the figures per year for calls to the Centre that were attempted, but the caller was not able to get through to a human being at the Centre or otherwise able to complete the call? Is the Centre certain that those figures are comprehensive, or is it possible that there were additional callers

who tried without success to get through to a live person at the Centre, but their attempted call was not captured by your data collection?

3. The Centre is governed by a Board of Directors appointed by the Ontario Government.

a) Please provide us with copies of the minutes of all meetings of the Centre's Board of Directors since the Centre was created, whether in person or via conference call or other electronic means, and a list of the dates of all meetings of the board of directors. If any client names or confidential identifying information is included in those minutes, we of course agree that they should be blacked out.

b) Please provide us with a list of all the people that have served or are serving on the Centre's Board of Directors, including the date of the appointment of each and the term of each. We would also like to know how many people were on the Board at any one time, throughout the period since the Centre went into effect. We gather that for a period of time, the only Board member was the initial Chair. If so, we would, for example, like to know how long that period was, and whether there is something akin to Board minutes documenting that Chair's official decisions or other work when he was the sole board member.

c) How many hours do the Board members (including the Chair) each work? Are they paid on a full time, per diem or per hour basis? At what rate of pay?

4. What are the Centre's criteria for deciding on whether a person's case has sufficient merit to receive legal representation by the Centre? Must there be simply any evidence on which a Tribunal finding could be made in favour of the applicant, or does the Centre make credibility assessments or other judgement-calls about the strength of the applicant's case, even if there is some evidence that could support a finding of discrimination?

5. The Centre's January 9, 2012 response to us indicates that even if an applicant has a case that has merit, and asks the Centre to represent that applicant at the Human Rights Tribunal, the Centre has a policy to refuse to represent that applicant if, in the Centre's judgement, the individual could represent himself or herself in proceedings at the Human Rights Tribunal.

a) What does the Centre use as its criteria for deciding whether an applicant can self-represent?

b) In the Centre's view, how is an unrepresented human rights applicant to effectively represent themselves without legal expertise when navigating the Tribunal's rules of procedure?

c) Does the Centre take into account an applicant's income or personal resources when deciding if that applicant can represent himself or herself at the Tribunal, or in deciding on whether the Centre will give the individual any legal services?

d) What role does a potential applicant's income or means play in the Centre's assessing whether they are a disadvantaged individual, for whom priority will be given to provide them with the Centre's services?

e) What role does the Centre give to the fact that a respondent is represented at the Tribunal when assessing whether, in the Centre's view, the applicant can represent themselves at the Tribunal?

6. The Centre's January 9, 2012 response to us states the following regarding complaints the Centre received about its refusing to represent an

applicant: "In the last three years, only two (2) complaints were not resolved at the staff level and taken to the Board of Directors."

a) What happened with the two complaints that went to the Centre's board?

What was the final result?

b) Did the Board give these individuals an opportunity to appear in person before the board? Did such a meeting occur?

7. In the response to our November 14, 2011 inquiries, the Centre stated:

"If the decision of the senior team is that representation should not be provided, the lawyer will meet with the applicant to explain the decision and the reasons. In most cases, the individual has accepted our decision.

In fact, many applicants have gone on to win their cases at the Tribunal with our assistance."

a) Please tell us what specific data or information you have to support the statement that many applicants whom the Centre refuses to serve go on to win at the Tribunal?

b) What data does the Centre have or track to know how many applicants whom the Centre refuses service even go on to the Tribunal at all?

c) What specific information does the Centre track, and does it have, to support its opinion that in most cases where the Centre refuses to give services to an applicant, the individual has accepted the Centre's decision." Does this come from statements from the applicants? To whom? What record of this does the Centre have?

d) Where the Centre states: "many applicants have gone on to win their cases at the Tribunal with our assistance," do you track data, and do you have any data, showing that your assistance given to these

people caused or contributed to their succeeding at the Tribunal?

e) What does the Centre mean by an applicant going on to "win" at the Tribunal? Does this refer to their getting a Tribunal finding of discrimination at a full hearing on the merits? Or does this refer to their also getting the Tribunal to order all the remedies for discrimination that the applicant sought? Or does it also include cases where an applicant went on to the Tribunal and negotiated some sort of settlement agreement, including one where there is no finding of discrimination made? If you are also including cases settled without a Tribunal ruling or order finding discrimination, do you call a case a "win" if the terms of the settlement are less than the applicant sought?

8. The Centre says that there has been an increase in public interest remedies ordered by the Tribunal since Bill 107 went into effect:

a) Please provide any and all specifics that you have on this, including the basis of this claim. For example, what is the number of pre-Bill 107 public interest remedies to which you are comparing, and for what year or years? Where are you getting these numbers to compare?

b) Does the Centre here claim that since Bill 107, there is a higher rate of public interest remedies that the Tribunal orders relative to the total number of cases that it decides?

9. The Centre says it regularly seeks systemic or public interest remedies:

a) For whom does the Centre act when seeking these in an individual case - the private client or some other perceived public interest at large?

b) If an applicant is prepared to settle a case on terms that a respondent offers, but which includes no systemic or public interest remedies, what steps, if any, does the Centre take to try to get the respondent to agree to public interest remedies, and on whose behalf does the Centre then act?

c) Could you please provide annual statistics of the total number of case settlements your Centre has negotiated, and the percentage of all settlement agreements in which your Centre has settled a case, and in which a public interest or systemic remedy has been obtained?

d) Please also provide copies of the settlement agreements with or without public interest remedies. Let us know if your Centre, agrees to confidentiality terms in settlement agreements and if so, in what circumstances.

10. We understand that your Centre has set up some sort of system for "duty counsel" at Tribunal hearings. Could you please provide specifics on how this works including, for example:

a) Of the applicants whom the Centre has represented at Tribunal proceedings each year, how many and what percentage have received this representation via duty counsel, as opposed to a lawyer or paralegal who prepared the case for the hearing in advance of the hearing day?

b) What services or representation does the duty counsel provide? Do they argue the case for the client?

c) At what kinds of Tribunal proceedings does duty counsel appear? Hearings on the case's merits? Mediations? Summary dismissal applications? Procedural motions or discussions?

11. The Centre's January 9, 2012 response at various points refers to delivering services by lawyers. Please give a breakdown by year of services delivered by lawyers as opposed to non-lawyers e.g. paralegals or community legal workers.

12. Can you advise what percentage of applicants appear at summary dismissal proceedings at the Tribunal unrepresented?

13. The Centre states that it has a budget for hiring expert witnesses.

a) What is the annual budget for this? Has the Centre ever needed to exceed this annual budget?

b) Of those cases when an expert was retained, at what stage in the proceedings was the expert retained?

14. To how many applicants who have filed human rights applications under the Human Rights Code since June 30, 2008 has the Human Rights Legal Support Centre committed to provide full legal representation, by a lawyer acting as legal counsel, throughout the tribunal process from beginning to end?

a) Per year?

b) In total since your organization began operations?

(Question 4 of our November 14, 2011 letter to you)

15. What additional funding has the Centre requested of the Ontario Government? What reasons has it

given for requesting the additional funding?

What additional funding, if any, was granted and when?

(Question 12 of our November 14, 2011 letter to you)

16. Did your Centre make any exceptions to its policy against providing any legal services to anyone whose case was in the human rights system before Bill 107 went into effect, and ended up at the Tribunal under Bill 107's transition provisions without the backing of the Human Rights Commission?

(Question 7 of our November 14, 2011 letter to you)

17. What legal services is the Centre now providing outside Toronto? Which and what proportion of these are delivered by your staff located in local communities outside Toronto, and which from your Toronto offices? Where do you have offices and full time lawyers or other staff situated outside Toronto?

a) Per year?

b) In total since your organization began operations?

(Question 17 of our November 14, 2011 letter to you)

18. In how many cases has your organization requested that the Ontario Human Rights Commission intervene or otherwise take part in a case at the Human Rights Tribunal in which your Centre is involved? In how many of those cases did the Ontario Human Rights Commission actually intervene or otherwise take part?

a) Per year?

b) In total since your organization began operations?

(Question 22 of our November 14, 2011 letter to you)

19. Does your Centre believe the Human Rights Commission should

a) be intervening in more individual applications before the Tribunal?

b) initiate more Commission-initiated applications before the Tribunal?

Please provide particulars.

(Question 23 of our November 14, 2011 letter to you)

20. Has your Centre requested that the Human Rights Commission initiate a Commission-initiated application under Bill 107? If so, in what circumstances? In how many and what percentage of cases of this did the Commission act on your request by launching a Commission-initiated application?

(Question 24 of our November 14, 2011 letter to you)

21. The Pinto Review's Consultation Paper says it has met with the three human rights agencies (including the Human Rights Legal Support Centre).

Please provide us with all information you gave the Pinto Review. Will you also provide us with any other information or submissions you give the Review from now on?

22. Has your Centre offered the public an avenue for having input in advance into the areas which your organization sets as priorities under the Human Rights Code?

(Question 27(e) of our November 14, 2011 letter)

23. Your January 9, 2012 response addressed part of our inquiry regarding cases where a court ordered an applicant to pay the respondent's court costs in a court challenge to a Human Rights Tribunal ruling:

a) Did your Centre's paying the costs order against an applicant come out of your Centre's original budget or did the Government provide added funding to cover these costs orders?

b) When you are giving advice to a complainant/applicant or potential complainant/applicant about bringing a human rights application before the Tribunal, is it your policy or consistent practice to advise them of the risk that a court can later order them to pay the respondent's legal costs for court proceedings, if they win at the Tribunal but later lose in court after a respondent brings a judicial review application?

(Question 28(c) and (d) of our November 14, 2011 letter)

We look forward to hearing from you as soon as possible on these matters.

Thank you in advance for your assistance. I would appreciate it if you could confirm that you received this email.

Yours sincerely,

David Lepofsky, CM, O.Ont., Chair

Accessibility for Ontarians with Disabilities Act Alliance

cc: Andrew Pinto Chair, Human Rights Review
