

1 Boast Street
Eshowe 3815
6 June 2016

B13

Thembile Mtati,
Deputy Information Officer and Corporate Services Executive
Legal Aid South Africa
29 De Beer Street
Braamfontein

Cc:

Information Officer and Chief Executive Officer Vidhu Vedalankar
Chief Legal Executive Patrick Hundermark
Internal Audit Executive Sethopo Mamotheti
Board Secretary Langa Lethiba

By email

Dear Mr Mtati

PAIA APPLICATIONS:
RECORDS NEITHER FURNISHED NOR CERTIFIED;
FAILURE TO COMPLY PROPERLY AND FULLY WITH SETTLEMENT AGREEMENT;
RETURN TO COURT ON 28 JULY 2016

In your email of 19 April 2016, you very correctly stated: 'our section 23 affidavit does not address certain requested information.'

By letter to you on 29 April, I identified fourteen of these records neither supplied to me nor certified under section 23 as non-existent or untraceable. (This was besides incomplete sets provided of requested records, the missing records neither supplied nor certified.)

Your supplementary section 23 affidavit on 12 May addressed only six of these.

The eight outstanding records that you've neither furnished nor certified under section 23 are: B16, B17, B18, B31, H12, H31, H32, and H48.

As required of you by our settlement agreement made at court on 11 February 2016, kindly respond to these outstanding record requests without further delay.

Besides your total and partial omissions to respond to my record requests, your performance under the settlement agreement was otherwise massively defective and non-compliant with PAIA in all the respects detailed in my April letter.

Save that your supplementary affidavit now certifies that six records, previously not addressed, don't exist, four credibly, one dubiously, and one certainly falsely, the many basic defects in your performance under the settlement agreement that I identified in my April letter remain unresolved. Your supplementary affidavit is shot through with the same defects.

Under clause 5 of the settlement agreement, I'm consequently returning to court to compel your due compliance with my PAIA requests enumerated in my consolidated list of requested records. The PAIA-specialist magistrate will see about your emailed response to my April letter on 9 May: 'We deny that we are in breach of the settlement agreement at all.'

Although the rules of court didn't require me to do so, I served your local correspondent with a copy of my letter to the Clerk of Court on 27 May requesting the allocation of a new set-down date. In case you haven't yet seen it, I annex a copy. Its annexures, all of which you already have, can be downloaded at tig.org.za/LC/PAIA.

In my letter to the Clerk of Court I stated:

Under rule 55(1)(k)(ii), I intend moving for orders:

- referring my PAIA applications to oral evidence;
- directing that the deponents to the answering- and confirmatory affidavits, Vidhu Vedalankar, Brian Nair, Thembile Mtati, Solly Sekgota, Hope Bambiso and Thenjiwe Magazi, appear personally to be cross-examined about documents that haven't been furnished to me and haven't been explained to my satisfaction or at all; and,
- granting me leave to subpoena LASA Human Resources Executive Amanda Clark, Chief Operations Officer (and alleged deputy information officer) Jerry Makokoane, Chief Legal Executive (and alleged deputy information officer) Patrick Hundermark, LASA's Board Executive Subcommittee chairperson, and chief IT officer (in charge of LASA's computer servers storing its electronic business records) for the same purpose.

I've now been allocated a new date for this purpose, 28 July 2016; and once I've drawn the schedule mentioned at the end of my letter to the Clerk of Court, identifying the issues and the witnesses to be cross-examined to get to the truth about the requested documents not provided me, I'll serve a formal notice of set-down on your local correspondent with the schedule attached to it. And email you a copy.

This is to give you early, informal notice of our next date in court to ensure that you have counsel retained and ready to go. There'll be no postponement. Your prevarication has wasted enough of my time already.

Please provide me with the name of LASA's chief IT officer; I can't find it online or in any of LASA's reports, and I need it for his subpoena.

Finally, I record that your failure to comply fully and properly with the settlement agreement is preventing me from completing my one final PAIA request about Senior Litigator posts, to which I agreed to limit myself in clause 7 of the settlement agreement. My agreed sixty days within which to lodge it will obviously run from the date you have fully and properly complied. I cannot and will not sign off and deliver my final PAIA request until I've had sight of all the documents previously requested under PAIA or your truthful, full and proper certification of them under section 23, because as I told you at court, documents disgorged from LASA by means of previous PAIA requests (and discovery requests before trial) have sometimes generated new lines of enquiry requiring my access to further records. And as I also told you, I'm essentially conducting a criminal investigation (perjury, defeating the ends of justice, lying to Parliament), so I will not be obstructed and hampered in this exceptionally serious exercise by your continuing, persistent, unlawful failure to provide me with all the information to which sections 11 and 23 of PAIA entitle me, in flagrant breach of the settlement agreement and in contemptuous violation of my fundamental right to information held by the state entrenched by section 32(1) of the Constitution.

You'll naturally be cross-examined on your response or non-response to this letter when my applications go to oral evidence.

As well as on your many criminal contraventions of section 90(1)(b) of PAIA, disclosed by both of your clearly perjured section 23 affidavits, to be shown in my coming schedule.

Yours sincerely

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

ANTHONY BRINK