



MINUTES
265th MEETING
OF THE
BOARD OF DIRECTORS

9:00 a.m.
February 24, 2009
Learning Centre
Legal Aid Alberta
400, 10320 – 102 Avenue
Edmonton AB

Members in Attendance

- ** Glenda Graham, Q.C.
- John Bachinski
- Oceanna Hall
- ** Dennis Kalma
- Colin Kloot
- Kirk MacDonald
- Daniel McKinley, F.C.A
- ** Kristine Robidoux, Q.C.
- ** Perry Sirota
- ** Pat Stopa, Q.C.

Members Absent

Staff in Attendance

(for all or part of meeting)

Jacquie Schaffter
Roland Gehrke
Wanda Fish
Katherine Weaver
Deborah Miller
Greg Francis
Jennifer Fowler
Pat Bard

- ** Denotes members who attended by video conference due to poor winter weather conditions and delayed flights.

The Meeting came to order at 9:00 a.m.

The Chair welcomed and introduced J. Patrick (Pat) Stopa, Q.C. as a new member of the Board of Directors. Mr. Stopa has been an active member of the bar who has been involved on Legal Aid Alberta Committees for a number of years. He is currently a member of the Appeals Committee South.

1. Approval of Agenda

It was duly Moved and Seconded to adopt the agenda as circulated. Carried Unanimously.

a) Minutes of Strategic Planning Committee

By consensus the Minutes of the Strategic Planning Committee meeting held February 9, 2009 were received for information.

2. Approval of Minutes

It was duly Moved and Seconded that the Minutes of the 264th Directors Meeting be approved. Carried Unanimously.

3. Meeting Dates

- April 27, 2009 – Strategic Planning Session
- April 28, 2009 - Edmonton
- June 18-20, 2009 - Sylvan Lake
- September 22, 2009 - Calgary
- December 8, 2009 - Edmonton

By consensus the meeting dates were received for information.

Board Priorities

4. LAA Strategic Plan 2009/10

i Roster Recruitment and Retention

Jennifer Fowler highlighted her report pointing out that the roster recruitment and retention initiative has formed three groups to develop mentorship, orientation, and recognition programs to ensure that private bar lawyers are motivated to accept Legal Aid certificates. She further advised that the on-line billing program is live and currently being used by staff lawyers as well as some private bar lawyers. Wendy Bouwman Oake is providing training to the law firms and cited one case where the private bar lawyer submitted an on-line billing and it was approved and paid the following day.

Ms. Fowler reported she will show case the on-line billing, the video, new website, and mentorship program at the Access to Justice Awards nights throughout the province.

Ms. Fowler highlighted the draft proposal for the Mentorship program noting that Mentors would have to have a minimum of 10 years experience and at least 50% of their practice must be in the area of law in which they are offering mentoring. A Committee comprised of Legal Aid staff lawyers will confirm the Mentors to ensure criteria is being met. Mentoring will be offered on a one-on-one basis, possibly with a signed agreement. Email mentorship is a possibility with lawyers emailing questions which would come to the Legal Aid office to be re-directed to a lawyer on the mentorship list. This would prevent any one lawyer from receiving an over abundance of email questions. Ms. Fowler advised that the proposal will be placed before the Executive Management team for further discussion.

Ms. Graham reported that she attended the Law Society meeting when Jennifer Fowler and Wendy Bouwman Oake made their presentation. The video to recruit roster lawyers and the on-line billing were well received and the Benchers were impressed with the initiatives. She does have a concern that large law firms have not yet been approached to provide some lawyers to take on legal aid certificates. She asked about the roll out plan for this and stated that Legal Aid Alberta may end up competing with Pro Bono Alberta for the same lawyers.

Ms. Fowler advised that her priority has been focused on getting the on-line billing into place as well as the other incentives such as the video, website, mentoring, etc. all of which will be rolled out at the Access to Justice Awards for the lawyers. It is necessary to get all projects ready to go so that they are operating smoothly in order to maintain Legal Aid's credibility with the bar. The same tools would be used to entice lawyers to enroll on the roster. She also advised that she and Wendy Bouwman Oake have been attending CPLED meetings to encourage articling students to become roster members and Deb Miller has spoken to the CBA Family Law subsection.

Ms. Robidoux advised that she has already mentioned to Jim Peacock that the firm of Gowling LaFleur Henderson should consider having articling and junior lawyers accept legal aid certificates. She advised that Mr. Peacock is in favour of pro bono but had not thought of Legal Aid Alberta. She advised Ms. Fowler that unless a push is put on to larger firms that we will be scooped by Pro Bono Alberta. Ms. Graham also advised that a number of the Board members know lawyers in large firms and can propose that they contact Legal Aid Alberta for a meeting.

Ms. Fowler advised that she has attended a number of the same functions as Gillian Marriott of Pro Bono Alberta and that she felt they could work together quite well as Pro Bono covers areas that are not handled by Legal Aid but that she understands what the Board is telling her. She advised that the key messages have already been developed and she can speak with the partners at Gowling LaFleur Henderson as soon as a meeting has been scheduled.

It was agreed the Jacqueline Schaffter and Jennifer Fowler will approach the firm of Gowling LaFleur Henderson to arrange and attend a meeting prior to the April Board meeting.

Ms. Fowler reported that the Nominations cards for the Access to Justice Awards were emailed out as well as 3000 copies have been sent out through Canada Post. The Law Society sent out the Nomination cards to its membership. The Selection Committee will review the nominations on March 23, 2009. The Committee is comprised of:

Peter Michalyszyn, Law Society
Diane Young, CBA
Kirk MacDonald, Board of Directors
Simon Yu – past recipient
Assist Chief Judge Allan Lefever, Provincial Court
Justice Nielson, Queen’s Bench
Jacqueline Schaffter

Access to Justice Awards celebration will be held in:
Calgary on the April 16th
Edmonton on April 17th
Rural regions dates still to be scheduled.

ii Client Process Development

Ms. Schaffter reported that the Client Process Development initiative mapped out all the steps taken by an applicant from the moment they walk through Legal Aid’s doors until their case is completed and identified barriers that the client faced. The Committee prepared a number of recommendations which are being reviewed and considered by a Steering Committee. As this initiative involves client services, Wanda Fish is on the Steering Committee.

Ms. Fish reported that the Steering Committee has reviewed the recommendations and rolled them out to staff on January 22, 2009. A meeting has been scheduled for March 22 to categorize and prioritize the recommendations to determine which one should go to project charters. She advised that some of the recommendations were simple and have been either implemented or are being worked on; other are more complex and long term such as telephony and are dependant on funding.

Ms. Graham questioned whether part of this process included educating clients on expectations and relationship with their lawyer. Ms. Schaffter advised that a booklet has been designed which includes a large section on expectations of your lawyer. The LAO’s will go through the booklet with the client during the interview process and provide a copy to the client to take with them. The booklet, which is like an introduction package, also contains the business card for the client contact person at Legal Aid Alberta. The same information will be placed on the website.

b) Family Law Office Strategic Plan

Deb Miller reported that the Strategic Plan is exhibited on the agenda and invited questions. She pointed out that the Family Law Office has been in existence since 2001 and there are 35 lawyers in Edmonton, Calgary and Lethbridge. The biggest challenge they are facing is meeting client demand as the number of files has been increasing steadily. A Planning Committee has been set up to review the client services being provided. A report will be available for the April Board meeting on a triage program and the committee is looking at unbundling services difficult areas such as constructive trust and property matters.

Ms. Schaffter advised that Legal Aid Alberta as a whole is looking at unbundling services and a Committee comprised of representatives of FLO, CALO and Client Services and therefore the Family Law Office Strategic Plan fits in well with Legal Aid's initiatives. Ms. Miller advised that the Board will receive reports on a regular basis.

Ms. Miller further reported that FLO took 35 files in the fall in Grande Prairie and Peace River. Legal Aid Alberta put out a call to the private bar lawyers to go to the areas and the need has now been addressed. This issue has been placed on the back burner.

Ms. Miller advised that she will meet with the Board in camera regarding succession planning. She will have some senior lawyers retiring and will need to capture their knowledge and expects to have a full succession plan in place within a year.

She further advised that the training budget for this fiscal year has been spent and that the lawyers are happy with the training they have received, 5 have taken management training course in Edmonton and 2 in Calgary. The next step will be to provide training courses for the staff.

Ms. Miller stated that quarterly meetings have been scheduled for strategic planning; it is a big plan with which she is pleased and sees it as a challenge.

By consensus the Board received this item for information

5. Board Governance

a) Board Strategic Planning Session

Ms. Schaffter reported that the Board Strategic Planning is scheduled for April 27, 2009 and meeting space has been secured at the Coast Edmonton Plaza Hotel, Glenora Room.

Mr. Gehrke advised that Guy Mason, MSA Consulting, has been retained and is meeting with members of the Executive from February 23 to February 25, 2009. The Consultants will be contacting the Board members to arrange interviews either in person or by telephone. The consultants will also be in contact with the Senior Management staff. A report will be put together for the April 27th meeting.

Ms. Schaffter advised that the Rules of Legal Aid Alberta must also be revised and the Consultants suggested that this be dealt with at the Strategic Planning Session. The Rules are extremely outdated with regards to Committees, procedures, eligibility and required major revisions but will be provided to the Board members prior to April 27th.

6. Governance (external) stakeholders and partners

Ms. Graham advised that in response to her letter requesting the appointment of representatives to sit on a Committee to Identify Legal Aid Alberta clients and to take a principled approach to tariff rates, the Minister has appointed Neil Dunne, Q.C. and Jeanette Fedorak. Tony Young has been appointed to represent the Law Society of Alberta and Jacque Schaffter and Katherine Weaver are representing Legal Aid Alberta.

Ms. Weaver advised that she is trying to schedule the first meeting of the Steering Committee for March at which time they will discuss the approach and methodology and the possibility of separating the tariff issue.

By consensus the Board received this item for information.

7. Draft budget

Mr. Gehrke advised that Legal Aid Alberta's funding has had some major set-backs in that the Government grant was expected to be \$59 million and has been frozen for two years at \$53 million. The Alberta Law Foundation grant which had been as high as \$15 million will be \$5.5 million and possibly lower for 2009/10 and expected to be even lower in the second year. Legal Aid Alberta is directed to operate a Bail Representation program at a cost of approximately \$2 million. This leaves an approximate \$17 million gap and even with the surplus Legal Aid Alberta will be insolvent by the end of the second year (2010/11).

Legal Aid Alberta send a proposal to Alberta Law Foundation requesting that the funding be frozen the current level for two years from their reserve funds. The response received was a definite no. Ms. Graham will be meeting with Peter Michalyshyn, President of the Law Society on March 2 and will speak to him regarding ALF funding.

Legal Aid Alberta is looking at all options in order to meet the shortfall and one of the major items is reversing the increase to the financial eligibility guidelines (FEG's). As this increase has already been implemented, due to the time lag for impact to be seen, action would have to be taken quickly. It is also anticipated that due to the economy more people could be applying for assistance. Another option is to not operate the Bail Representation program.

It was suggested that Legal Aid Alberta meet with Neil Dunne regarding the budget and that the Chair meet with the Minister with a clear message of the impacts of the budget such as rolling back the FEG's, laying-off staff, unbundling of services, setting quotas, or running a deficit.

Mr. McKinley stated that he believes that Government surplus is sufficient to operate Government programs in place now. If the oil prices go up as predicted by the oil field analysts then the revenues will go back up. Some analysts believe that this will happen within a few months. He understands that there is a large debate going on with the politicians now as to whether one should bite the bullet and run into a deficit or start slashing budgets. He believes that everything is open right now, indicated by the lateness of the Provincial targets and things will firm up over the next 6 weeks. He suggested that the budget should be as lean as it can be prior to a meeting with the Minister.

In response to an inquiry as to whether Legal Aid Alberta can borrow on the market Mr. McKinley was opposed unless there was a timeframe to pay it back but to knowingly borrow money without funding to repay it is a highly dangerous risk to take.

It was agreed that Ms. Schaffter will meet with Neil Dunne in week commencing March 2 and the Chair will approach the Minister for meeting thereafter.

Board Committee Reports

8. *a) Audit Committee*

The Audit Committee has a meeting scheduled for March 23, 2009

b) HR Committee

This item was held in camera.

c) Governance Committee

A meeting of the Governance Task Team has not been scheduled and a member is required to fill the vacancy left by Fred Fenwick.

By consensus it was agreed the Governance Task Team members are:

Perry Sirota – Chair
Glenda Graham, Q.C.
Kirk MacDonald
Kristine Robidoux, Q.C.

d) AGM Task Team

A meeting of the AGM Task Team has not been scheduled and a member is required to fill the vacancy left by Fred Fenwick.

By consensus it was agreed that the AGM Task Team members are:

Pat Stopa, Q.C. – Chair
Oceanna Hall
Dennis Kalma
Kirk MacDonald
Jacqueline Schaffter
Jennifer Fowler

A teleconference of the Task Team has been scheduled for Monday March 2, 2009 at 8:00 a.m. Recommendations from the Task Team will be sent to the Board for an email vote.

e) Nominations Committee

Ms. Robidoux reported that Pat Stopa, Q.C. has been appointed by the Benchers as a member of the Board of Directors for a three year term with the term to either be renewed or expire at the 2012 AGM.

She further reported that there will be three vacancies in June, the position vacated by Dianne Ireland, and expiry of term of Glenda Graham and Dan McKinley. She advised that she will refresh the Board competency matrix and send out requesting that this time there be brief descriptions to ascertain the levels of competency.

Board members are asked to forward names of interested candidates to Ms. Robidoux prior to the April Board meeting.

Operational Committees

9. Review of Client Complaint process

Ms. Schaffter reported that she prepared another package regarding the Client Complaints package which will be sent to the Calgary members. This issue is being brought forward as she has concerns in the way the client complaints process is being handled. There are three areas of concern 1) how client complaints are handled 2) quality controls and standards of roster and 3) Roster management and Roster Committee

The procedures she is looking at for handling client complaints is to get the Clients Complaints Manager to take the complaints quickly, handle it quickly and if possible resolve it over the telephone before it escalates as many complaints are really miscommunication and misunderstandings. She should have the ability to contact the appointed lawyer and resolve the matter, keep better statistics on the complaints and do follow through for standards and quality control.

The current procedures is to have the client put the complaint in writing, then write the lawyer requesting a written response which is time consuming for the lawyer. The client then is advised if the account is written off in part or whole but does not actually address the complaint itself and the lawyer is not advised as to the outcome.

Ms. Schaffter reported that the Rules need major revisions to bring it in line with current practices, committees and governance and also as it relates to the Roster Committee. She pointed out that the Roster Committee has not convened since March 2006 and is not being used to any great extent. There is more purpose we can have for the Committee such as monitoring our roster better to ensure that there are quality people on the roster.

Ms. Schaffter cited an instance where a lawyer, at the bar for four years, was the lawyer by choice on a very complex file involving three other lawyers. Standards should be developed for roster lawyers possibly specifying certain serious criminal or serious civil matters in which standards should be imposed and suggested a Committee be struck.

In the package she has developed, which will be distributed to the Board members, are the standards used by Ontario Legal Aid for information.

By consensus it was agreed that the Complex Cases Committee would work with Ms. Schaffter on the Roster standards as part of the Rules changes.

By consensus it was agreed that Pat Stopa would replaced Fred Fenwick as a member of the Complex Cases Committee.

The Board discussed an issue raised by some Benchers with respect to lawyers having to go through disciplinary hearing when acting for a Legal Aid client at reduced rates and was there anything the Legal Aid Alberta could do to assist the lawyer. Ms. Schaffter advised

that often Legal Aid Alberta is not aware of the situation because the client complains directly to the Law Society and neither the Law Society nor the roster lawyer advises Legal Aid.

By consensus it was agreed that Jacqueline Schaffter would speak with the complaints Resolution Officer at the Law Society, gather statistics and come back to the board with recommendation for the April 28, 2009 meeting.

10. Ft. McMurray Regional Legal Aid Committee

It was duly Moved and Seconded that Edna Moman be appointed as a member of the Ft. McMurray Regional Legal Aid Committee. Carried Unanimously.

11. Appeals Committee South

It was duly Moved and Seconded that Mark Walters and Margaret Keelaghan be appointed as members of the Appeals Committee South. Carried Unanimously.

Management Reports

12. Financial and Risk management

Mr. Gehrke highlighted the financial statements and reported that Legal Aid Alberta will be under budget by approximately \$5 million at year end largely due to staff vacancies and lower legal expenditures than forecasted.

By consensus the financial statements were received for information.

13. Operation Reports

a) Report of CEO

Ms. Schaffter highlighted her report and invited questions. She advised that there were questions raised in legislature on the number of times legal aid was refused for a client due to no available counsel and the average income of our clients.

Ms. Schaffter will respond to the questions advising that Legal Aid has been able to provide the lawyers for clients, and no one has ever been refused for that reason. The average income would be of no value but if available she will provide the medium incomes.

By consensus the Report of the CEO was received for information.

b) Report of Senior Counsel of FLO

Ms. Miller highlighted her report and advised that the Family Law Office is fully staffed. There is a senior counsel who will be retiring and one on maternity leave. The Emergency Protection Order Program has received an additional \$100,000 over the next two years. The Family Law Office in Calgary is working with Student Legal Services.

By consensus the report of the Senior Counsel was received for information.

c) Report of Senior Counsel of YCDO

Mr. Francis highlighted his report advising that the Youth Criminal Defence Office is moving ahead with the integration with Legal Aid Alberta's IT architecture. The project is being launched at the end of March with YCDO staff on the committee for the development of the Case Management system.

Mr. Francis reported that he has happily accepted the responsibility of overseeing the Bail Representation project due to his previous experience as a JP. The Crown has indicated that at this time they will be providing prosecutors at bail hearings in Edmonton and Calgary 5 days a week during the day and evenings. Mr. Francis advised he has assembled a team to search out office space, equipment, and will be filling the duty counsel positions on both full and part time basis as well as utilizing the current staff duty counsel. The go live date is April 1, 2009 and he is optimistic that the deadline will be met. He advised that the project may have to commence with the use of telephone only at the start of the project if the video equipment is not available. He is anticipating the cost will be approximately \$1.5 million.

By consensus the report of the Senior Counsel was received for information.

d) KPI's for FLO, YCDO, Program Services

By consensus the key performance indicators were received for information.

List of Pending items

14. Pending List from December Board meeting

By consensus this item was received for information.

Items for Information

15. Upcoming Dates

April 16 – Calgary, Access to Justice Awards

April 17 – Edmonton, Access to Justice Awards

In Camera

16. It was duly Moved and Seconded that the Board move into an in camera session. Carried unanimously. It was duly moved and seconded that the Board come out of in camera session. Carried Unanimously.

Jacqueline Schaffter
President & CEO