

July 13, 2016

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The Honourable Louis Sebert
Minister of Justice
Minister Responsible for Public Engagement and Transparency
P.O. Box 1320
Yellowknife, NT X1A 2L9

CC: Kieron Testart (MLA for Kam Lake), R. J. Simpson (MLA for Hay River North), Shane Thompson (MLA for Nahendeh)

RE: Proposed Closure of the M.M. de Weerd Law Library

Dear Minister:

The Edmonton Law Libraries Association, a group of about 40 law librarians and affiliates, strongly encourages the GNWT Department of Justice to reconsider its decision to close the M.M. de Weerd Law Library. Access to justice has been identified as a **crisis** in Canada. As a result, several organizations across the country (e.g. CBA Access to Justice Committee, Canadian Forum on Civil Justice, etc.) are dedicating their resources to address this issue. On the other hand, the GNWT Department of Justice is closing the **only** law library in its region.

Some of our Association members work in firms with Yellowknife offices, which have access to resources elsewhere in the case of losing access to the NWT law library. However, smaller practices, sole practitioners, and self-represented litigants have no other options. We worry about the overall consequences of this decision, and how it may impact our colleagues and other members of the legal community. This letter addresses the Minister's comments on the issue during the 18th Assembly, 2nd Session of the NWT Legislature on June 16, 2016 and June 17, 2016, as well as relevant media articles.

The Deputy Minister has suggested that NWT lawyers could borrow books from "a law library somewhere in Alberta"¹. Libraries provide interlibrary loans (ILLs) to other libraries based on agreements, policies, and mandates between both libraries. The borrowing library in turn, loans the book to individual patrons. Without a Yellowknife or NWT library to assume responsibility for coordinating the loan **and return** of books, NWT residents will not be allowed to request interlibrary loans from libraries in Alberta. Furthermore, ILLs of that distance take some time to process. In most circumstances, waiting three weeks for a point of law is not realistic nor does it support access to justice. Even so, it cannot be assumed that law libraries will be able or willing to enter ILL agreements, especially during a time of fiscal restraint and reduced resources in other jurisdictions.

¹ Mitch Wiles, "Closing N.W.T.'s only law library makes financial sense, says Justice department", *CBC News* (16 June 2016), online: <<http://www.cbc.ca/news/canada/north/closing-nwt-law-library-responsible-thing-to-do-1.3637849>>.

While it may be true that the nature of legal research has changed², it does not eliminate the need to refer to legal literature that is particular to the NWT, which is not necessarily available online, especially not without a cost³. While free, online legal resources such as CanLII are useful for recent decisions and up-to-date legislation⁴, they are not all-encompassing and historical research remains a large part of legal research. For example, CanLII only covers legislation from 1988 and later, while the law of the NWT goes as far back as the 1870s. To put this into perspective, that leaves nearly 120 years of NWT legislation untouched. Additionally, contrary to the Minister's belief, most cases and case analyses are not available online and free of cost⁵. Using CanLII as an example again, the free, online service only includes NWT case law from 1996 and later, leaving out nearly 130 years of NWT case law. Furthermore, CanLII's commentary service, CanLII Connects, includes only 11 documents that **mention** "Northwest Territories", and they mostly encompass wrongful dismissal and charter rights. This is in no way a replacement for well-established and well-respected secondary sources which lawyers and judges rely upon, and which self-represented litigants could find helpful in their quest for justice.

Access to justice does not solely concern the needs of the lawyers in the government^{6 7}. As the GNWT Department of Justice has access to legal resources, there are other lawyers and self-represented litigants, who are not employed by the GNWT with the same needs. To address the Minister's mention of lacking statistics regarding library activity⁸, a book that isn't checked out from a library does not mean that it hasn't been used. Many users of libraries utilize the library's physical space to conduct their research without necessarily leaving the premises with the materials they use. The study of law is a time-consuming and time-sensitive practice. Legal research often leads down multiple subjects and requires iterative reading until the central issue is understood. As a result, even regularly visiting lawyers tend to opt out of a library's voluntary sign-in process. One such lawyer has noted that "[he sees] people in that library every day and [he] often [doesn't] see their names written on the paper"⁹. The same lawyer confirmed that this is also the case for self-representing litigants who have regular day jobs in addition to the work they are putting into their self-representation in court¹⁰.

The Edmonton Law Libraries Association encourages the Minister to consider the following questions:

1. To what extent was the in-house law librarian at the M.M. de Weerd Law Library, Bev Speight consulted prior to this decision being made?

² Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 23 (17 June 2016) at 741 (Hon Louis Sebert).

³ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 23 (17 June 2016) at 760 (Hon Louis Sebert).

⁴ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 23 (17 June 2016) at 757 (Hon Louis Sebert).

⁵ *Ibid.*

⁶ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 23 (17 June 2016) at 740 (Hon Louis Sebert).

⁷ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 23 (17 June 2016) at 758 (Hon Louis Sebert).

⁸ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 22 (16 June 2016) at 686 (Hon Louis Sebert).

⁹ Mitch Wiles, "Lawyers protest plan to close N.W.T.'s only law library", *CBC News* (15 June 2016), online:

<<http://www.cbc.ca/news/canada/north/lawyers-protest-plan-to-close-nwt-law-library-1.3635567>>.

¹⁰ *Ibid.*

2. After a letter was sent to the Law Society of the Northwest Territories to seek concerns and input¹¹, what concerns and input were provided by the Law Society of the Northwest Territories? How much time was the Law Society given for consultation prior to this decision being made?
3. Having mentioned that the Minister informally consulted with his fellow practitioners over the years¹², how many of the 380 practicing lawyers of the Law Society of the Northwest Territories were included in this group of fellow practitioners? Furthermore, how many of these fellow practitioners were not employed by the GNWT?
4. Why is the library being closed before a contingency plan is put in place? Why is the library being closed before confirming the potential costs incurred for the hypothetical resource centre that may replace it? As the Minister has not conducted a cost analysis regarding the resource centre¹³, has anyone else in the GNWT Department of Justice conducted such an analysis? If no one has, why not?
5. Before the library's material is offered to members of the local Bar and other interested parties, will a formal tracking process of said materials be established? How will self-represented litigants be able to access this material once the collection has been dispersed?

We are not convinced that enough consultation^{14 15}, research, and thought has gone into making this critical decision, one that will dismantle a law library that has existed for 40 years¹⁶, and whose resources and staff have helped ensure the provision of justice being served in the NWT jurisdiction. Frankly speaking, the resource centre that the GNWT Department of Justice is looking to establish, allowing access to legal information by legal counsel¹⁷ and the general public is the very description of a **law library**. To reiterate, the Edmonton Law Libraries Association strongly encourages the Minister and the GNWT Department of Justice to reconsider its decision to close the M.M. de Weerd Law Library, the **only** law library in its region.

Sincerely,
Megan Siu

Chair, on behalf of the



¹¹ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 22 (16 June 2016) at 686 (Hon Louis Sebert).

¹² Ibid.

¹³ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 23 (17 June 2016) at 741 (Hon Louis Sebert).

¹⁴ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 22 (16 June 2016) at 686 (Hon Louis Sebert).

¹⁵ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 23 (17 June 2016) at 758 (Hon Louis Sebert).

¹⁶ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 23 (17 June 2016) at 755 (Hon Louis Sebert).

¹⁷ Northwest Territories, Legislative Assembly, *Hansard*, 18th Leg, 2nd Sess, Day 22 (16 June 2016) at 686 (Hon Louis Sebert).