

**REPORT WITH RESPECT TO THE APPLICATION FOR REVIEW
OF ██████████ IN RELATION TO INFORMATION AND COPIES OF
DOCUMENTATION REQUESTED FROM SGI**

In an Access to Information Request Form ██████████ (the "Applicant") requested certain information from SGI. In her Request form, the Applicant described the information that she requested in the following words:

"All correspondence regarding ██████████ for accident ██████████ that killed ██████████
Parents: ██████████ with ██████████ and ██████████
█████████ against R.M. of Paddockwood No. 520
Third Party Claim after ██████████ to settlement ██████████. In these pages,
█████████ is blamed for the accident, death, injuries and is being sued for
\$300,000.00. Please include any or other information regarding this terrible
accident that was allowed to happen."

By letter December 18, 2000, SGI advised the Applicant that it declined to provide the information and documentation as requested. The portion of the letter outlining the basis for the refusal reads as follows:

"SGI insured The Rural Municipality of Paddockwood No. 520 for this accident. All documents including witness statements gathered by SGI in the course of defending the legal action contain information that is subject to solicitor-client privilege and not subject to disclosure. This exemption is provided for in section 22(a) of *The Freedom of Information and Protection of Privacy Act*.

I understand that you were represented by legal counsel in the litigation. Your legal counsel may be able to provide you with some of the information that you are looking for."

The Applicant filed with me a Request for Review dated March 14, 2001. The words used by the Applicant to describe her Request for Review are as follows:

"SGI were sued by ██████████ & two other couples after ██████████
█████████ was killed in an UNMARKED three week old excavation. SGI in turn
sues ██████████ in a Third Party Claim after ██████████ and before
settlement ██████████."

I duly advised SGI of my decision to conduct a Review as requested by the Applicant. At the same time, I requested SGI to forward to me all of the relevant documents for my inspection pursuant to the provisions of Section 54 of *The Freedom of Information and Protection of Privacy Act* (the "Act").

SGI arranged to deliver to me on April 4, 2001, the entirety of the files maintained by SGI in regard to the matters that are raised in the Applicant's Request for Review. The documents comprising

the files are voluminous, measuring about 10 inches in thickness. I have now had the opportunity of reviewing those files.

The files reveal that a tragic motor vehicle accident occurred during the late evening hours of [REDACTED]. While driving on a grid road within the boundaries of the Rural Municipality of [REDACTED], [REDACTED] the daughter of the Applicant, died when her motor vehicle which she was operating encountered a washout on a grid road. At the same time, other occupants of the motor vehicle were injured.

In a Statement of Claim dated [REDACTED], solicitors acting on behalf of the Applicant, her husband and the individuals that had been injured in the automobile accident commenced legal proceedings against the Rural Municipality [REDACTED]. SGI was the insurer of the rural municipality and undertook the defence of the action on behalf of its insured. During the course of the proceedings, the rural municipality initiated third party proceedings against one [REDACTED] who owned land near the grid road that was being travelled at the time of the fatal accident.

The file of SGI is comprised of copies of the pleadings of the Court action, correspondence between counsel, memoranda and notes of SGI investigators and adjusters prepared for the use of counsel, memoranda reflecting advice and opinion of counsel and copies of transcripts of Examinations for Discovery.

The file further reflects that the action commenced by the Applicant and other plaintiffs against the municipality was settled. The Applicant and her husband executed a form of Final Release in consideration of the payment of Sixteen Thousand (\$16,000.00) Dollars on the [REDACTED].

The third party proceedings taken against [REDACTED] by SGI were discontinued and the file closed.

A great portion of the file is a duplication of documentation that would be available to the Applicant through the solicitor that represented her at the time of the proceedings. I gather from the wording used in the Application for Access and for Review that the Applicant is not interested in obtaining copies of these documents but rather documents that relate to [REDACTED]

The file contains a typewritten copy of statement presumably given by [REDACTED] on the [REDACTED]. This document was no doubt produced by counsel for the parties during the course of the proceedings, as I note that a copy of the statement of [REDACTED] is referred to in the Statement as to Documents of the Third Party, as prepared by his counsel. In the circumstances, I recommend that SGI produce to the Applicant a copy of the statement of [REDACTED] dated [REDACTED].

The documentation in the file of SGI that reflect the considerations taken into account in arriving at the decision to discontinue the third party proceedings against [REDACTED] and the actual opinions in that regard are subject to solicitor-client privilege and need not be produced to the Applicant by SGI by reason of the provisions of Section 22(a) of the *Act*, which provides as follows:

“22 A head may refuse to give access to a record that:

- (a) contains information that is subject to solicitor-client privilege;”

Dated at Regina, in the Province of Saskatchewan, this 9th day of April, 2001.

GERALD L. GERRAND, Q.C.
Commissioner of Information
and Privacy for Saskatchewan