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Minister Lulu Xingwana
Department of Arts and Culture (DAC)
Republic of South Africa
c/o The Archival Platform

24 September 2009

To the Honourable Minister,

Enabling access to information a key responsibility of the archival community

I am writing on behalf of the South African History Archive (SAHA) in conjunction with the 'Letters to Lulu' campaign coordinated by The Archival Platform for Heritage Month 2009. This campaign is intended to raise awareness of some of the key challenges facing the archival and heritage sectors in South Africa, and to suggest ways to address these challenges and grasp new opportunities.

As a small human rights archive in Johannesburg with a particular interest in access to information, SAHA is committed to extending the boundaries of freedom of information in South Africa as a mechanism to facilitate transparency, accountability and good governance in our young democracy. The archival sector, as well as the library and heritage communities, has a vital role to play in creating spaces to encounter and debate with the voices of others, written or spoken, from the past or present, without fear of censorship, surveillance, exclusion. Archives must be working towards the inclusion of previously marginalized voices and histories in our records, encouraging dissenting voices to be contained in the same sphere, to argue over and draw attention to struggles for justice, the making of democracy, and the writing of history in South Africa.

However, there are a host of difficulties facing the archival sector that currently limit the sector's ability to support and encourage the democratic project in South Africa. Access to information is a constitutional right in South Africa, enabled by the Promotion of Access to Information Act (PAIA). But the severe lack of records management skills is currently critically impairing government departments' ability to respond to requests from South African citizens and organisations, under PAIA, for information in the public interest or to promote or defend human rights. This is compounded by low levels of resourcing to information institutions and units, resulting in low staffing levels, inadequate to

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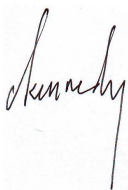
ensure that government archives are managed effectively and staff have the time to respond to PAIA requests.

The government has a responsibility to ensure that both government employees, and the broader public, are aware of the enabling right of access to information – knowledge and understanding of PAIA is low, particularly in communities who could most benefit from using this legislation. There is a potential role for archivists, records managers and even public librarians to contribute to raising awareness of information rights, but again, the information sector's ability to conduct such training and public education initiatives is dependent on adequate training and resourcing within the sector itself.

If government is to foster an information culture in South Africa that shrugs off the legacy of secrecy and encourages the transparency and accountability central to any well-functioning democracy, there needs to be greater demonstration of political will to promote an open information regime in South Africa. The absence of an independent information ombudsman or commissioner in South Africa, makes the right to access information one that only the wealthy can really afford to pursue. Currently, if an access to information request is refused and an internal appeal proves to be unsuccessful, the person or organisation making the request has to resort to litigation to try and secure the information requested. The costly, time consuming nature of litigation has the potential to make the right to access information one that is of little practical use to poorer communities in South Africa. If, rather than having to resort to court, there was an independent ombudsman with the authority to make rulings on access to information requests, then economic status would be less of a factor in determining who can exercise this right.

The idea of such an information regulator is included within the Protection of Private Information Bill currently before parliament and there is an opportunity to ensure that the powers of this regulator are extended in such a way as to make access to information a more accessible right for most South Africans. While the Department of Justice is supposed to be the country's 'lead agency' on access to information, the Department of Arts and Culture, as the 'lead agency' for archives and libraries, has a vital role to play in raising awareness around the cross-cutting nature of information management and access, so as to ensure that this sector is adequately resourced (and relevant legislation such as PAIA, POPIA and the National Archives Act harmonised) to lobby for equal access to information for all.

Yours faithfully,



Catherine Kennedy
Acting Director