

Copyright Board
Canada



Commission du droit d'auteur
Canada

[TRANSLATION]

Ottawa, June 15, 2019

File : 2016-UO/TI-06 Marie Martin-Hubbard

Ms. Martin-Hubbard:

The Copyright Board has reviewed your application filed on May 13, 2016 and has determined that a licence cannot be issued as your application does not meet the criteria set out in section 77 of the *Copyright Act* (“the Act”).

In this regard, subsection 77(1) of the Act states that

[w]here, on application to the Board by a person who wishes to obtain a licence to use

- a) a published work,
- b) a fixation of a performer’s performance,
- c) a published sound recording, or
- d) a fixation of a communication signal

in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in section 3, 15, 18 or 21, as the case may be. [our underline]

In this case, the Board has determined that there is no evidence that the letters you intend to reproduce have been published.

Subsection 2.2(1) of the Act defines publication as “making copies of a work available to the public (...)”. The fact that the letters are available in an archival collection does not correspond to this definition.

As the works have not been published, the Copyright Board is not authorized to issue a licence.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilles McDougall". The signature is fluid and cursive, with the first name "Gilles" being more prominent and the last name "McDougall" following in a similar style.

Gilles McDougall
Secretary General