



Manual in terms of Section 51 of the Promotion of Access to Information Act

Waters Edge Home Owners Association NPC
2008/001881/08

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Contents

1.	Introduction	3
2.	Company Overview	3
3.	Contact Details.....	3
4.	Guide to the Act.....	4
5.	Latest Notices.....	4
6.	Other Records Available.....	4
7.	Subjects and Categories of Records Held	5
8.	Procedure to Request Access.....	6
9.	Grounds for Refusal	7
10.	Prescribed Fees	8

1. Introduction

The Promotion of Access to Information Act, 2 of 2000 (“the Act”) gives effect to Section 37(1)(a) and (b) of the Constitution of the Republic of South Africa, Act 108 of 1996, which provides for the right of access to information held by public and private bodies when such information is requested for the exercise or protection of any rights. The Act, among other things, sets out the procedural requirements for a request for information, the requirements to be met, and grounds for refusal.

A copy of the Act is available at http://www.dfa.gov.za/department/accessinfo_act.pdf.

The purpose of this manual is to inform requestors of the procedural and other requirements which a request for information must meet as prescribed by the Act.

2. Company Overview

Waters Edge Home Owners Association NPC (“the Company”) is a non-profit company as defined in the Companies Act No. 71 of 2008 that protects the rights of all of its members residing at the Waters Edge Residential Estate (“the Estate”), collects levies and other charges, and runs the common areas of the Estate. This manual only deals with the records held by the Company.

3. Contact Details

The Portfolio Manager of the Company’s Managing Agent has been appointed as its Information Officer responsible for ensuring that the requirements of the Act are administered in a fair, objective and unbiased manner.

Please address all requests for access to records relating to the Company to:

Managing Agent:	Harcourts George Rennie & Co.
Portfolio Manager:	Mr. W. Nagy
Postal Address:	P.O. Box 285, Benoni, 1500
Street Address:	6 Main Road, Farrarmere, Benoni
Telephone Number:	+27 11 425 0020
Fax Number:	+27 11 425 5500

4. Guide to the Act

This section provides a brief overview of the Act and describes where you can get more information about the Act.

- 4.1. The Act grants a requester access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.
- 4.2. Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.
- 4.3. Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights. The Guide is available from the South African Human Rights Commission.

The contact details of the Commission are:

Postal Address: Private Bag 2700, Houghton, 2041
Telephone Number: +27 11 877 3600
Fax Number: +27 11 403 0625
Website: www.sahrc.org.za

5. Latest Notices

At this stage, no notices have been published in terms of section 52 (2), the categories of records that are automatically available without a person having to request access in terms of the Act, but all information available on the Association's website (watersedge.org.za) is automatically available to any person, and is therefore not necessary to request in terms of the Act.

6. Other Records Available

This section lists the Company records that are available through legislation other than the Act.

- 6.1. Basic Conditions of Employment Act, 75 of 1997
- 6.2. Companies Act, 71 of 2008
- 6.3. Compensation for Occupational Injuries and Disease Act, 130 of 1993

- 6.4. Constitution of the Republic of South Africa Act, 3 of 1994
- 6.5. Employment Equity Act, 55 of 1998
- 6.6. Income Tax Act, 58 of 1962
- 6.7. Labour Relations Act, 66 of 1995
- 6.8. Occupational Health and Safety Act, 85 of 1993
- 6.9. Skills Development Act, 9 of 1999
- 6.10. South African Revenue Services Act, 34 of 1997
- 6.11. Unemployment Insurance Act, 63 of 2001
- 6.12. Value Added Tax Act, 58 of 1962

7. Subjects and Categories of Records Held

This following table defines the subjects and categories of Company records held.

Records	Subject
1. Companies Act Records	Memorandum of Incorporation; Minutes of Board of Directors' meetings; Records relating to the appointment of directors/ auditors/secretary/public officer and other officers; statutory registers; CIPC registration documentation
2. Financial Records	Annual Financial Statements; Tax returns; Accounting Records; Asset Register; Rental agreements; Invoices
3. Income tax records	PAYE records; Documents issued to employees for income tax purposes; Records of payments made to SA Revenue Services on behalf of employees; All other statutory compliances such as VAT, Regional Services Levies, Skills Development Levies, UIF, and Workmen's Compensation
4. Personnel documents	Employment contracts; Disciplinary records; Salary records; Disciplinary code; Leave records; Training records; Training manuals; Address lists

8. Procedure to Request Access

- 8.1. In order to request access, the requester must complete the prescribed Form C (available at the end of this manual), and send the form together with the applicable fee to the Portfolio Manager.
- 8.2. The form must provide sufficient particulars to enable the Portfolio Manager to:
 - 8.2.1. Identify the record(s) requested,
 - 8.2.2. Identify the requester,
 - 8.2.3. Indicate which form of access is required, and
 - 8.2.4. Specify a South African postal address and/or fax number of the requester.
- 8.3. The requester must identify the right that the requester is seeking to exercise or protect, and provide an explanation of why the requested record is required for the exercise or protection of that right.
- 8.4. The requester must indicate, that if in addition to a written reply, the requester wishes to be informed of the decision on the request in any other manner, to state that manner and the necessary particulars to be informed in the other manner.
- 8.5. If the request is made on behalf of another person, the requester must submit proof of the capacity in which the requester is making the request, to the reasonable satisfaction of the Portfolio Manager.
- 8.6. The Portfolio Manager will inform the requester within 30 days after receipt of the request of its decision whether or not to grant the request.
- 8.7. The 30 day period may be extended in Portfolio Manager's sole discretion, with a further period of not more than 30 days, if the request is for a large number of records or requires a search through a large number of records, and compliance with the original period would unreasonably interfere with the activities of the Company, or the records are not located at the premises of the Managing Agent.

9. Grounds for Refusal

Apart from section 7 of the Act, and subject to section 70 of the Act, the Company may refuse a request for information because of the following and other reasons.

- 9.1. Protection of the privacy of a third party, if that third party is a natural person, which would involve the unreasonable disclosure of personal information of that natural person.
- 9.2. Protection of commercial information of a third party if the record contains:
 - 9.2.1. Trade secrets of that third party,
 - 9.2.2. Financial, commercial, scientific or technical information where the disclosure of which would be likely to cause harm to that third party,
 - 9.2.3. Information disclosed subject to a confidentiality undertaking between the Company and that third party,
 - 9.2.4. Protection of safety of individuals and protection of property, or
 - 9.2.5. Protection of records which would be regarded as privileged in any legal proceedings.
- 9.3. Protection of commercial activities of the Company, including but not limited to:
 - 9.3.1. Financial, commercial, scientific or technical information, disclosure which could cause harm to the Company,
 - 9.3.2. Information which, if disclosed, could put the Company at a disadvantage in negotiations, or
 - 9.3.3. The research information of the Company or a third party on behalf of the Company if the disclosure would expose the third party, the Company, or the researcher to disadvantage.

The Company does not have an internal appeal procedure and therefore the decision made by the Portfolio Manager is final. Should the requester be dissatisfied with the decision, the requester may apply, within 30 days of notification of the decision, to a Court of law for relief.

10. Prescribed Fees

This section defines the fees that apply when submitting a request.

- 10.1. The requestor is required to pay the prescribed fee before a request will be processed.
- 10.2. If the preparation of the record requested requires more than six hours, a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted).
- 10.3. A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit.
- 10.4. Records may be withheld until the fees have been paid.
- 10.5. The latest fee structure is available on the website of the South African Human Rights Commission at www.sahrc.org.za.

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY
(Section 53(1) of the Promotion of Access to Information Act, 2000
(Act No. 2 of 2000)

[Regulation 10]

A. Particulars of private body

The Head:

B. Particulars of person requesting access to the record

- | | |
|-----|---|
| (a) | The particulars of the person who requests access to the record must be given below. |
| (b) | The address and/or fax number in the Republic to which the information is to be sent must be given. |
| (c) | Proof of the capacity in which the request is made, if applicable, must be attached. |

Full names and surname:

Identity number:

Postal address:

Fax number:

Telephone number:

E-mail address:

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed <i>ONLY</i> if a request <i>for information</i> is made on behalf of <i>another</i> person.
--

Full names and surname:

Identity number:

D. Particulars of record

- | | |
|-----|--|
| (a) | Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located. |
| (b) | If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios. |

1 Description of record or relevant part of the record:

2 Reference number, if available:

3 Any further particulars of record:

E. Fees

- | |
|--|
| <p>(a) A request for access to a record, other <i>than</i> a record containing personal information about yourself, will be processed only after a request fee has been paid.</p> <p>(b) You will be <i>notified of</i> the amount required to be paid as the request fee.</p> <p>(c) The fee payable for access to a record depends <i>on</i> the form <i>in which</i> access is required and the reasonable time <i>required</i> to search for and prepare a record.</p> <p>(d) If you qualify for exemption <i>of</i> the payment <i>of</i> any fee, please state the reason for exemption.</p> |
|--|

Reason for exemption from payment of fees:

F. Form of access to record

<p>If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.</p>
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Disability:	Form in which record is required
<p>Mark the appropriate box with an X.</p> <p>NOTES:</p> <p>(a) Compliance with your request in the specified form may depend on the form in which the record is available.</p> <p>(b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.</p> <p>(c) The fee payable for access for the record, if any, will be determined partly by the form in which access is requested.</p>	

1. If the record is in written or printed form:

	copy of record*		inspection of record
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2. If record consists of visual images

this includes photographs, slides, video recordings, computer-generated images, sketches, etc)

	view the images		copy of the images"		transcription of the images*
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3. If record consists of recorded words or information which can be reproduced in sound:

	listen to the soundtrack audio cassette		transcription of soundtrack* written or printed document
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4. If record is held on computer or in an electronic or machine-readable form:

	printed copy of record*		printed copy of information derived from the record"		copy in computer readable form* (stiffy or compact disc)
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<p>'If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.</p>	YES	NO
--	-----	----

G Particulars of right to be exercised or protected

If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Indicate which right is to be exercised or protected:
2. Explain why the record requested is required for the exercise or protection of the aforementioned right:

H. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at..... This..... day of20

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF REQUEST IS MADE