

**Home Owners Association
2003/009741/08**

**Promotion of Access to and Protection of
Information Manual**

**Manual in terms of
The Promotion of Access to Information Act (PAIA) and
The Protection of Personal Information Act (POPIA)
("PAPI Manual")**



This Promotion of Access to and Protection of Information ("PAPI") Manual (and all updated manuals) of the Plantations Home Owners Association must be –

- Provided to the SA Human Rights Commission and the Community Schemes Ombud Service;
- Published in the Gazette;
- Available at the premises of the Home Owners Association;
- Published on the website (if any) of the Home Owners Association;
- Accessible to the Information Regulator, the directors and employees of the Home Owners Association;
- Available to any person on request and payment of the prescribed fee; and
- Reviewed regularly and updated as necessary.

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1. DEFINITIONS

PAIA means the Promotion of Access to Information Act 2 of 2000

POPI means the Protection of Personal Information Act 4 of 2013

Information Regulator means the Regulator established in terms of Section 39 of POPIA

Person means a natural person or a juristic person

Private body means:

- a natural person who carries or has carried on any trade, business or profession, but only in such capacity
- a partnership which carries or has carried on any trade, business or profession; or
- any former or existing juristic person, but excludes a public body

Public body means:

- any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
- any other functionary or institution when:
 - exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
 - exercising a public power or performing a public function in terms of any legislation

Head, in relation to, a private body means:

- in the case of a natural person, that natural person or any person duly authorised by that natural person;
- in the case of a partnership, any partner of the partnership or any person duly authorised by the partnership;
- in the case of a juristic person:
 - the chief executive officer or equivalent officer of the juristic person or any person duly authorised by that officer; or
 - the person who is acting as such or any person duly authorised by such acting person

Information Officer means the head of a private body

Deputy Information Officer means the person to whom any power or duty conferred or imposed on an Information Officer by POPI has been delegated

Requester in relation to a private body, means any person, including, but not limited to public body or an official thereof, making a request for access to a record of the organisation or a person acting on behalf of such person

Personal Requester means a requester seeking access to a record containing personal information about the requester

Personal Information means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:

- information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;

- information relating to the education or the medical, financial, criminal or employment history of the person;
 - any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
 - the biometric information of the person;
 - the personal opinions, views or preferences of the person;
 - correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
 - the views or opinions of another individual about the person; and
 - the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person

Request for access means a request for access to a record of the organisation in terms of section 50 of PAIA

Record means any recorded information regardless of the form or medium, in the possession or under the control of the organisation irrespective of whether or not it was created by the organisation

Data Subject means the person to whom personal information relates

Third Party in relation to a request for access to a record held by the organisation, means any person other than the requester

Processing means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use, dissemination by means of transmission, distribution or making available in any other form, or merging, linking, as well as restriction, degradation, erasure or destruction of information

2. INTRODUCTION

2.1 In recognition of our Constitutional rights to access to information and privacy, the State has enacted legislation.

2.2 The Promotion of Access to Information Act, No. 2 of 2000, ("PAIA") came into operation on 9 March 2001. Section 51 of PAIA requires that we compile a manual setting out the procedure to be followed should information, that is required for the purpose of exercising or protecting rights, be requested from us.

2.3 The Protection of Personal Information Act, No.4 of 2013 ("POPIA") came into operation on 1 July 2021. The purpose of POPIA is to promote the protection of personal information processed by public and private bodies through regulation.

2.4 As a defined private body, we are required to comply with this legislation.

3. PURPOSE OF THE PAPI MANUAL

3.1 PAIA grants a requester access to records of a private body, if the record is required for the exercise or protection of any rights. POPIA requires that personal information is processed in a defined manner.

3.2 Requests for access to information in terms of PAIA are to 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 PAIA, and are set out below.

3.3 This PAPI Manual sets out the procedure to be followed by us where information is requested in terms of PAIA.

3.4 This PAPI Manual complies with the requirements of the guide mentioned in Section 10 of PAIA, as set out further below.

4. PLANTATIONS HOME OWNERS ASSOCIATION

4.1 Plantations Home Owners Association (“the Home Owners Association” or “HOA”) is an established Home Owners Association and is responsible for the enforcement of the rules, control, administration and management of the common property for the benefit of all the owners.

4.2 The functions and powers of the Home Owners Association are performed by the directors of the Home Owners Association.

5. CONTACT DETAILS OF THE HOME OWNERS ASSOCIATION

5.1 The Home Owners Association’s details are as follows:

Home Owners Association	
Full Name of Complex	PLANTATIONS ESTATE
Type of Complex	Home Owners Association
Registration Number	2003/009741/08
Physical Address	47 Shongweni Road, Hillcrest, 3610, KZN
Domicilium Address	47 Shongweni Road, Hillcrest, 3610, KZN
Postal Address	47 Shongweni Road, Hillcrest, 3610, KZN
Telephone Number	031 765 8968
Email Address	estatemanager@plantationsestate.co.za
Website	www.plantationsestate.co.za

6. CONTACT DETAILS OF THE INFORMATION OFFICER

6.1 The Information Officer of the Home Owners Association is the head of the private body. The Information Officer may appoint Deputy Information Officers should it be necessary to perform its duties and responsibilities. The Information Officer and Deputy Information Officer/s is/are required to be registered with the Information Regulator.

6.2 The Information Officer and/or Deputy Information Officer of the Home Owners Association is/are responsible for:

- Encouraging compliance with PAIA and POPIA;
- Dealing with requests for access;
- Working with the Information Regulator relating to investigations;
- Determining whether to grant a request for access to a complete/full record or only part of a record; and
- Providing adequate notice and feedback to the requester.

6.3 All requests for information must be addressed to the Information Officer / Deputy

Information Officer. The Information Officer’s details are as follows:

Information Office / Chairperson	
Full Names and Surname	Alison Kitching
Physical address	47 Shongweni Road, Hillcrest, 3610, KZN
Postal address	47 Shongweni Road, Hillcrest, 3610, KZN

Telephone Number	074 603 2900
Email address	estatemanager@plantationsestate.co.za

7. HUMAN RIGHTS COMMISSION'S PAIA GUIDE

7.1 Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission ("SAHRC"), which contains information for the purposes of exercising Constitutional Rights.

7.2 The Guide is available from the SAHRC, the details of which are set out below:

SAHRC

Head Office

Braampark Forum 3

33 Hoofd Street

Braamfontein

Postal address

Private Bag 2700

Houghton

2041

Telephone Number: +27-11-877 3600

Email address: paia@sahrc.org.za

Website: www.sahrc.org.za

8. CATEGORIES OF RECORDS THAT ARE AUTOMATICALLY AVAILABLE

8.1 No notice has been published on the categories of records that are automatically available without a person having to request access in terms of PAIA3.

9. RECORDS OF THE HOME OWNERS ASSOCIATION THAT ARE AVAILABLE IN ACCORDANCE WITH OTHER LEGISLATION

9.1 The Home Owners Association holds records in terms of the legislation set out below, which, unless disclosure is prohibited in terms thereof or by agreement, requests for access thereto may be made in terms of such legislation read with PAIA and POPIA.

Title	Number
Attorneys Act	53 of 1979
Auditing Professions Act	26 of 2005
Basic Conditions of Employment Act	75 of 1997
Community Schemes Ombud Service Act	9 of 2011
Companies Act	71 of 2008
Compensation of Occupational Injuries & Diseases Act	130 of 1993

Consumer Protection Act	68 of 2008
Debt Collectors Act	114 of 1998
Electronic Communications and Transactions Act	25 of 2002
Financial Intelligence Centre Act	38 of 2001
Identification Act	68 of 1997
Income Tax Act	58 of 1962
Labour Relations Act	66 of 1995
Legal Practitioners Act	28 of 2014
Occupational Health and Safety Act	85 of 1993
Promotion of Access to Information Act	2 of 2000
Protection of Personal Information Act	4 of 2013
Skills Development Act	9 of 1999
Unemployment Contributions Act	63 of 2001
Unemployment Insurance Act	30 of 1966
Value Added Tax Act	89 of 1991

9.2 Where any specific legislation may be omitted from the above list, a requester may lodge a request with the Information Officer in terms of such legislation read with PAIA and POPIA and the Information Officer will consider such request in light thereof.

9.3 Records of a public nature and other statutory records may be accessed without a formal application.

10. RECORDS OF THE HOME OWNERS ASSOCIATION THAT ARE AVAILABLE ONLY ON REQUEST TO ACCESS IN TERMS OF PAIA

10.1 The Home Owners Association ("HOA") maintains the categories of records set out in the table below:

Category	Record	Purpose	Data Subject
Administrative	HOA Rules	Legal requirements	HOA
	Email correspondence	Management	HOA
	Health & Safety Plan	Legal requirements	HOA
	Insurance Policies	Legal requirements	HOA
	Internal Correspondence	Internal management	HOA
	Managing Agent Correspondence	Legal requirements	HOA
	Minutes of Board / AGM Meetings	Legal requirements	HOA
	Resolutions and Governances	Legal requirements	HOA
	Visitors Registers	Legal requirements	HOA
HOA Members	Email Correspondence	Internal management	HOA Members
	Member Agreements	Internal management	HOA Members
	Member Correspondence	Internal management	HOA Members
	Member Database	Internal correspondence	HOA Members
Financial	Audit Reports	Internal management	HOA
	Bank Statements	Internal management	HOA
	Financial Statements	Internal management	HOA
	Levy Statements	Internal management	HOA
	Disciplinary Codes	Internal management	Employees
	Employment Contracts	Internal management	Employees
	Job Applications	Internal management	Employees

	PAYE Records	Internal management	Employees
	Personal Records	Internal management	Employees
	SETA Records	Internal management	Employees
Third Party	Financial Records	Written Agreement	Third Party
	Lease Agreements	Written Agreement	Third Party
	Rental Agreements	Written Agreement	Third Party
	Sale Agreements	Written Agreement	Third Party
	Legal Correspondence	Written Agreement	Third Party
	Supplier Agreements	Written Agreement	Third Party
Tax Records	Correspondence	Statutory Records	Employees
	Skills Levels	Statutory Records	Employees
	UIF	Statutory Records	Employees
	VAT Records	Statutory Records	Employees
	Workman's Compensation	Statutory Records	Employees

10.2 Requests for access to the records of the HOA must be made in terms of the procedure set out below.

11. PROCESS TO REQUEST ACCESS TO A RECORD OF THE HOME OWNERS ASSOCIATION

11.1 Requests must be submitted on the prescribed form (copy available as annexure hereto) to the Information Officer / Deputy Information Officer at its address or email address.

11.2 The form for a request for access must:

11.2.1 Provide sufficient particulars to enable the Information Officer / Deputy Information Officer to identify -

11.2.1.1 The requester

11.2.1.2 The records/s requested

11.2.2 Indicate which form of access is required;

11.2.3 Specify a postal address or fax number of the requester in South Africa;

11.2.4 Indicate the right the requester is seeking to exercise or protect and provide an explanation of why the record is required for such;

11.2.5 If the requester wishes to be informed of the decision in any other manner in addition to a written reply, state the manner and necessary particulars to be so informed;

11.2.6 If the request is made on behalf of another person, to submit proof thereof.

11.3 If all reasonable steps have been taken to find a record requested and there are reasonable grounds for believing that the record is in the Home Owners Association's possession but cannot be found or does not exist the Information Officer must notify the requester by way of affidavit or affirmation.

11.4 The Information Officer / Deputy Information Officer will as soon as is reasonably possible but in any event within 30 days make a decision and notify the requester of such decision. Such 30 day period may be extended once for a further period of 30 days in certain instances and on notice to the requester.

11.5 If granted the notice will state the access fee (if any) to be paid upon access, the form of access and that the requester may lodge an application with a court against the access fee to be paid. If refused the notice must state adequate reasons for the refusal, exclude any reference to the content of the record and state that the requester

may lodge an application with a court against the refusal and the procedure (including the period) for lodging the application.

11.6 The Information Officer must or may sever from any record requested such parts that cannot be disclosed and must disclose the rest.

12. GROUNDS FOR REFUSAL OF ACCESS TO A RECORD OF THE HOME OWNERS ASSOCIATION

12.1 Subject to certain exceptions (as set out below) access to information must be refused where its disclosure would involve the unreasonable disclosure of personal, commercial or confidential information about a third party or would endanger the life or safety of an individual or is otherwise privileged. Similarly, access may be refused if the record contains commercial information where disclosure could cause harm, disadvantage or prejudice.

12.2 The Information Officer must refuse a request for access to information where disclosure would involve unreasonable disclosure of personal information about a third party (including a deceased individual) except where:

12.2.1 the individual has consented in writing;

12.2.2 is already publicly available;

12.2.3 the individual provided the information and was informed beforehand that the information belongs to a class of information that would or could be made available to the public;

12.2.4 the information relates to health or wellbeing of someone under the care of the requester who is under 18 years old and incapable of understating the nature of the request and such access would be in the individuals best interests;

12.2.5 the information relates to a deceased and the requester is, or has the consent of, the next of kin;

12.2.6 the information relates to an individual's position or function;

12.2.7 the record contains

12.2.7.1 trade secrets of a third party;

12.2.7.2 financial, commercial, scientific or technical information of third party the disclosure of which would likely cause harm,

12.2.7.3 information supplied in confidence by a third party, the disclosure of which could put that third party at a disadvantage or prejudice -

Except where consented in writing or the results of any product or environmental testing or investigation carried out by a third party and its disclosure would reveal a serious public safety or environmental risk;

12.2.8 Disclosure would constitute an action for breach of duty of confidence owed to a third party in terms of an agreement;

12.2.9 Disclosure would endanger life or physical safety of an individual;

12.2.10 Record is privileged from production in legal proceedings, unless privilege is waived;

12.2.11 Record contains information about research being or to be carried out by or on behalf of a third party the disclosure of which is likely to expose the third party; a person that is or will be carrying out the research on behalf of the third party; or the subject matter of the research to serious disadvantage.

12.3 The Information Officer may refuse a request for access to information where:

12.3.1 Disclosure would likely prejudice or impair

12.3.1.1 security of a building, structure or system, including a computer or communication system, a means of transport or any other property

or

12.3.1.2 methods, systems or plans and procedures for the protection of a witness in protection, the safety of the public or security of property¹⁷;

12.3.2 Record

12.3.2.1 Contains trade secrets of the Home Owners Association;

12.3.2.2 Contains financial, commercial, scientific or technical information of the Home Owners Association the disclosure of which would likely cause harm;

12.3.2.3 Contains information, the disclosure of which could reasonably be expected to put the Home Owners Association at a disadvantage in contractual negotiations or prejudice the Home Owners Association in commercial completion;

12.3.2.4 Is a computer program

Except if it contains information about the results of any product or environmental testing or other investigation carried out by or on behalf of the Home Owners Association and its disclosure would reveal a serious public safety or environmental risk.

12.3.3 Record contains information about research being or to be carried out by or on behalf of a third party the disclosure of which is likely to expose the Home Owners Association; or a person that is or will be carrying out the research on behalf of the Home Owners Association; or the subject matter of the research to serious disadvantage.

13. MANDATORY DISCLOSURE OF RECORDS OF THE HOME OWNERS ASSOCIATION IN THE PUBLIC INTEREST

13.1 The Information Officer must grant a request for access to a record of the Home Owners

Association if:

13.1.1 The disclosure would reveal evidence of a substantial contravention of or failure to comply with the law or imminent and serious public safety or environmental risk;

13.1.2 The public interest in the disclosure clearly outweighs the harm contemplated.

14. THIRD PARTY NOTIFICATION AND INTERVENTION OF A REQUEST FOR ACCESS TO A RECORD OF THE HOME OWNERS ASSOCIATION

14.1 The Information Officer considering a request for access to a record that might relate to a third party, contain commercial information of a third party, require an agreed duty of confidence or relate to research information of a third party and the disclosure would expose them to serious disadvantage must take all reasonable steps to inform the third party of the request.

14.2 The third party may either consent to or refuse the request for access. The Information Officer must consider the third parties response, or where they could not be located such fact, and will make a decision, in terms of the provisions of PAIA on whether or not to grant access.