



**MOOIKLOOF OWNERS' ASSOCIATION NPC**

**Registration number 1996/015680/08**

**("MOA")**

**PROMOTION OF ACCESS TO  
INFORMATION MANUAL  
(PRIVATE BODY)**

**PREPARED IN TERMS OF SECTION 51 OF THE PROMOTION  
OF ACCESS TO INFORMATION ACT 2 OF 2000**

## **1 INTRODUCTION AND PURPOSE OF THE MANUAL**

- 1.1 This manual is published in terms of Section 51 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000 – “the Act”). The Act gives effect to the provisions of Section 32 of the Constitution of South Africa, which provides that “everyone has the right of access to any information held by another person and that is required for the exercise and/or protection of any right”. Where a request is made in terms of the Act, the body to which the request is made is obliged to release the information, except where the Act expressly provides that the information may or must not be released.
- 1.2 The reference to any information in addition to that specifically required in terms of
- 1.3 Section 51 of the Act does not create any right or entitlement (contractual or otherwise) to receive such requested information, other than in terms of the Act.
- 1.4 It is important to note that the Act recognizes certain limitations to the right of access to information, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality, and effective and good governance, and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution. Any request for access to information may be refused on the grounds as set out in Chapter 4 of Part 3 of the Act.

## **2 SCOPE OF APPLICATIONS**

- 2.1 This manual has been prepared in respect of Mooikloof Owners’ Association NPC, registration number 1996/015680/08. Mooikloof Owners’ Association NPC shall be referred to as “MOA” for the purposes of this manual.
- 2.2 The Information Officer appointment is postponed as per the regulator.

## **3 INFORMATION REQUIRED UNDER SECTION 51(1)(a) OF THE ACT: CONTACT DETAILS**

Name of private body:	Mooikloof Owners’ Association NPC
Head of private body:	Pieter Thomaïdes – Estate Manager
Information Officer (IO):	postponed to 1 February 2022 as per regulator
Email address of IO:	
Deputy IO:	postponed to 1 February 2022 as per regulator
Email address of Deputy IO:	
Postal address:	P.O Box 92035, Mooikloof, 0059
Physical address:	30 Flaming Rock Crescent, Mooikloof, Pretoria, 0059
Phone number:	012 996 0290
Email address:	<a href="mailto:info@mooikloofestate.co.za">info@mooikloofestate.co.za</a>

Website: [www.mooikloofestate.co.za](http://www.mooikloofestate.co.za)

#### **4 DESCRIPTION OF GUIDE REFERRED TO IN SECTION 10: SECTION 51(1)(b)**

- 4.1 A guide has been prepared by the South African Human Rights Commission in accordance with Section 10 of the Act. The guide contains such information as may be reasonably required by a person who wishes to exercise any right contemplated in the Act.
- 4.2 This guide is available from the SAHRC at their address as detailed below:

Division:	PAIA UNIT
Physical address:	Braampark Forum 3 33 Hoofd Street, Braamfontein
Phone number:	011 877 3600
Fax number:	011 403 0668
Email:	<a href="mailto:paia@sahrc.org.za">paia@sahrc.org.za</a>
Website:	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>

#### **5 CATEGORIES OF INFORMATION AVAILABLE WITHOUT REQUEST IN TERMS OF SECTION 51(1)(c)**

- 5.1 No notice in terms of Section 52(2) of the Act, regarding the categories of records of MOA which are available without request has been published.
- 5.2 The information as regarding MOA is accessible at [www.mooikloofestate.co.za](http://www.mooikloofestate.co.za) without request. The website contains various categories of information relating to MOA, such as, details of the estate layout, living at Mooikloof Equestrian Estate and contact details.

#### **6 RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION: SECTION 51(1)(d)**

- 6.1 MOA keeps records in accordance with the following legislation, all of which are available, subject to such legislation and the Act:
  - 6.1.1 Basic Conditions of Employment Act, No. 75 of 1997
  - 6.1.2 Companies Act, No. 71 of 2008
  - 6.1.3 Compensation for Occupational Injuries and Health Diseases Act, No. 130 of 1993
  - 6.1.4 Electronic Communications and Transactions Act 25 of 2002
  - 6.1.5 Employment Equity Act, No. 55 of 1998
  - 6.1.6 Income Tax Act, No. 58 of 1962
  - 6.1.7 Labour Relations Act, No. 66 of 1995
  - 6.1.8 Non-profit Organisations Act 71 of 1997

- 6.1.9 Occupational Health & Safety Act, No. 85 of 1993
- 6.1.10 Promotion of Access to Information Act, No. 2 of 2000
- 6.1.11 Skills Development Act, No. 97 of 1998
- 6.1.12 Skills Development Levies Act, No. 9 of 1999
- 6.1.13 Unemployment Contributions Act, No. 4 of 2002
- 6.1.14 Unemployment Insurance Act, No. 63 of 2001
- 6.1.15 Value Added Tax Act, No. 89 of 1991

## **7 CATEGORIES OF RECORDS HELD IN TERMS OF SECTION 51(1)(e)**

The following are the subject and categories of records held:

### **7.1 Human resources**

- 7.1.1 Personal records of the personnel
- 7.1.2 Employments contracts
- 7.1.3 Disciplinary records
- 7.1.4 Salary records
- 7.1.5 Training Records
- 7.1.6 Correspondence relating to personnel
- 7.1.7 Leave records
- 7.1.8 UIF Returns
- 7.1.9 Internal policies and procedures

### **7.2 Secretarial**

- 7.2.1 Memorandum of Incorporation
- 7.2.2 Minutes of the Board of Directors
- 7.2.3 Company Register and other statutory registers
- 7.2.4 Records relating to the appointment of directors/auditors and other officers
- 7.2.5 Resolutions
- 7.2.6 Minute Book

### **7.3 Financial and administration**

- 7.3.1 Annual Financial Statements
- 7.3.2 VAT Records
- 7.3.3 PAYE records
- 7.3.4 Fixed asset register
- 7.3.5 Banking records
- 7.3.6 UIF Records

- 7.3.7 Management reports
- 7.3.8 Invoices
- 7.3.9 Debtors and creditors information

#### **7.4 Information Management and Technology**

- 7.4.1 Services Level Agreements
- 7.4.2 Equipment Register
- 7.4.3 Policies, Procedures and guidelines
- 7.4.4 Licensing agreements

#### **7.5 Operations**

- 7.5.1 Access control records
- 7.5.2 Archival Administration Documentation
- 7.5.3 Insurance (insurance arrangements, policies and claims)
- 7.5.4 Asset register

#### **7.6 Safety Records**

- 7.6.1 Occupational Health and Safety records
- 7.6.2 Records of incidents in the workplace

#### **7.7 Customer/Clients and third parties related records**

- 7.7.1 Contracts with Clients and Members
- 7.7.2 Any records the Client and Members have provided to MOA or a third party acting for or on behalf of MOA
- 7.7.3 Records, reports, designs and the like generated by MOA for their clients and members
- 7.7.4 Records generated pertaining to Clients and Members, including transactional records

### **8 DETAILS ON HOW TO MAKE REQUESTS FOR ACCESS TO RECORDS HELD BY THE COMPANY: SECTION 51(1)(e)**

- 8.1 A request shall be made on the prescribed form, a copy of the form is attached marked Annexure "A" ("prescribed form"). The prescribed form is also available from SAHRC website ([www.sahrc.org.za](http://www.sahrc.org.za)) or the Department of Justice and Constitutional Development ([www.doj.gov.za](http://www.doj.gov.za)).

- 8.2 The prescribed form shall be submitted to the Information Officer at the address, or electronic mail address provided for above, and upon payment of the prescribed fees. The Information Officer shall upon receipt of the request in the prescribed form acknowledge receipt of the request and advise if there any prescribed fees payable or not and the manner of payment.
- 8.3 The prescribed form must be completed with enough particularity to enable the Information Officer to identify:
  - 8.3.1 the record(s) requested;
  - 8.3.2 the identity of the requester;
  - 8.3.3 indicate which form of access is required, if the request is granted;
  - 8.3.4 specify the postal address or fax number of the requester in the Republic.
- 8.4 The requester must state which right she or he is seeking to exercise or protect and provide an explanation of why the requested record is required for the exercise or protection of such right (section 53(2) (d)).
- 8.5 The requester will be informed in writing, within 30 days of receipt of the request, whether access has been granted or denied. If, in addition, the requester requires the reasons for the decision in any manner, she or he must state the manner and the particulars so required (section 53(2)(a) and (b) and (c) and (e)).
- 8.6 If a request is made on behalf of another person, the prescribed form will still need to be completed and the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer (section 53(2)(f)).
- 8.7 If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 8.8 MOA will process the request within thirty (30) days, unless the requester has stated special reasons which would satisfy the Information Officer, that circumstances dictate that the thirty (30) day period within which to process the request not be adhered to or followed.
- 8.9 The Information Officer may decide to extend the period of thirty (30) days ("original period") for another period of not more than thirty (30) days if –
  - 8.9.1 the request is for a large number of records;

- 8.9.2 the search for the records is to be conducted at premises not situated in the same town or city as the office of the MOA;
  - 8.9.3 consultation among divisions or departments, as the case may be, of the company is required;
  - 8.9.4 the requester consents to such an extension in writing; and
  - 8.9.5 the parties agree in any other manner to such an extension.
- 8.10 Should the company require an extension of time, the requester shall be informed in the manner stipulated in the prescribed form of the reasons for the extension.
- 8.11 The requester will be notified of the decision of the Information Officer in the manner indicated by the requester.
- 8.12 If the request is granted, the requester shall be informed by the Information Officer in the manner indicated by the requester in the prescribed form.
- 8.13 Notwithstanding the afore going, the Information Officer will advise the requester in the manner stipulated by the requester in the prescribed form of –
- 8.13.1 the access fee to be paid for the information (in accordance with paragraph 10);
  - 8.13.2 the format in which access will be given; and
  - 8.13.3 the fact that the requester may lodge an appeal with a court of competent jurisdiction against the access fee charged or the format in which access is to be granted.
- 8.14 After access is granted, actual access to the record requested will be given as soon as reasonably possible.
- 8.15 If the request for access is refused, the Information Officer shall advise the requester in writing of the refusal. The notice of refusal shall state –
- 8.15.1 adequate reasons for the refusal;
  - 8.15.2 that the requester may lodge an appeal with a court of competent jurisdiction against the refusal of the request (including the period) for lodging such an appeal.
- 8.16 Upon the refusal by the head of the Information Officer, the deposit paid by the requester will be refunded.
- 8.17 If the Information Officer fails to respond within 30 days after a request has been received, it is deemed, in terms of section 58 read together with section 56(1) of the Act, that the Information officer has refused the request.

## **9 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS**

The main reason(s) why MOA may refuse a request for information relates to the:

- 9.1 protecting of personal information regarding a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person (section 63);
- 9.2 protection of confidential 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 which disclosure could likely cause harm to the financial or commercial interests of that third party;
  - 9.2.3 information disclosed in confidence by a third party to MOA, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition (section 64);
- 9.3 mandatory protection of the safety of individuals and the protection of property (section 66);
- 9.4 mandatory protection of confidential information of third parties if it is protected in terms of any agreement (section 67);
- 9.5 mandatory protection of records which would be regarded as privileged in legal proceedings (section 67);
- 9.6 the commercial activities of MOA, which may include –
  - 9.6.1 trade secrets of MOA;
  - 9.6.2 financial, commercial, scientific or technical information which disclosure of could likely cause harm to the financial or commercial interests of MOA;
  - 9.6.3 information which, if disclosed could put MOA at a disadvantage in negotiations or commercial competition;
- 9.7 requests for information that is clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

## **10 FEES PAYABLE**

- 10.1 The fees for reproduction of a record as referred to in section 52(3) are as follows:



- 10.1.1 for every photocopy of an A4 size page or part thereof R1.10.
  - 10.1.2 for every printed copy of an A4-size page or part thereof R0.75.
  - 10.1.3 for a copy of a compact disc R70.00.
  - 10.1.4 for a transcript of visual images for an A4 size page or part thereof R40.00.
  - 10.1.5 for a copy of visual images R60.00.
  - 10.1.6 for a transcript of an audio record, for an A4-size page or part thereof R20.00.
  - 10.1.7 for a copy of an audio record R30.00.
  - 10.1.8 for search and preparation of the record for disclosure R30.00 per hour or part thereof, excluding the first hour, reasonably required for the search preparation.
  - 10.1.9 for actual postage fee.
- 10.2 The request fee payable by a requester, other than a personal requester is R500.00.
- 10.3 If the Information Officer is of the opinion that six (6) hours will be exceeded to search, reproduce and/or prepare the information requested, a deposit is payable equal to one-third of an amount of R30.00 for each hour or part thereof, exceeding the six (6) hours.

## **11 REMEDIES AVAILABLE WHEN MOA REFUSES A REQUEST FOR INFORMATION**

### **11.1 Internal Remedies**

- 11.1.1 MOA does not have an internal appeal procedure. As such, the decision made by the Information Officer is final, and requester will have to exercise such external remedies at their disposal if the request for information is refused, or the fees payable, or is unhappy with the quality of information provided, or the requester is not satisfied with the answer supplied by the Information Officer.

### **11.2 External Remedies**

- 11.2.1 A requester that is dissatisfied with an Information Officer's refusal to disclose information, may within thirty (30) days of notification of the decision, apply to a relevant Court for relief. Likewise, a third party dissatisfied with an Information Officer's decision to grant a request for information, may within one hundred and eighty (180) days of notification of the decision, apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

### **11.3 Availability of this Manual**

- 11.3.1 This manual is available for inspection by the general public upon request, during office hours and free of charge at the physical address of MOA.
- 11.3.2 Copies may also be requested from the SAHRC.

11.3.3 This manual is also published on the MOA website referred to above.

## **12 INFORMATION OR RECORDS NOT FOUND**

- 12.1 If all reasonable steps have been taken to find a record, and such a record cannot be found or if the records do not exist, then the Information Officer shall notify the requester, by way of an affidavit or affirmation, that it is not possible to give access to the requested record.
- 12.2 The affidavit or affirmation shall provide a full account of all the steps taken to find the record or to determine the existence thereof, including details of all communications by the Information Officer with every person who conducted the search.
- 12.3 The notice, as set out in 12.1, shall be regarded as a decision to refuse a request for access to the record concerned for the purposes of the Act.
- 12.4 If the record in question should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form unless access is refused by the Information Officer.

## **13 THIRD PARTY INFORMATION**

- 13.1 If access is requested to a record that contains information about a third party, MOA is obliged to contact this third party to inform them of the request. This enables the third party the opportunity of responding by either consenting to the access or by providing reasons why the access should be denied.
- 13.2 In the event of the third party furnishing reasons for the support or denial of access, the Information Officer will consider these reasons in determining whether access should be granted, or not.

**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 Information Officer:

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**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:

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Identity number:

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Postal address:

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Telephone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

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

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**C. PARTICULARS OF PERSON ON WHOSE BEHALF THE REQUEST IS MADE**

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

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Identity number:

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**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:**

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**2. Reference number, if available:**

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**3. Any further particulars of the record:**

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**E. FEES:**

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

Reason for exemption of payment for the fee:

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**F. FORM OF ACCESS TO THE RECORD:**

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.

Disability \_\_\_\_\_

Form in which record is required \_\_\_\_\_

Mark the appropriate box with an "X"

NOTES:

- (a) Compliance with your request in the specified form may depend on the form in which the record is available.
- (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.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

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

Copy of record

Inspection of record

**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

**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)

**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)

\* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?

YES

NO

**Postage is payable.**

**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**

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**2. Explain why the record requested is required for the exercise of protection of the aforementioned right**

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**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?

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Signed at \_\_\_\_\_ this day \_\_\_\_\_ of \_\_\_\_\_ year \_\_\_\_\_

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**Signature of requester/  
person on whose behalf request is made**