

PAIA MANUAL

OF

**HERON HILL GARDEN ESTATE HOME OWNERS
ASSOCIATION(NPC)
REGISTRATION NR: 2007/027010/08**

**Prepared in accordance with Section 51 of the Promotion of Access
to Information Act, number 2 of 2000 (“PAIA”)**

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1. INTRODUCTION AND BACKGROUND TO THE PROMOTION OF ACCESS TO INFORMATION ACT

The Protection of Personal Information (POPI) Act emanates from Section 14 of the Constitution of the Republic of South Africa, which section provides that everyone has the right to privacy and it includes a right to protection against the unlawful collection, retention, dissemination and use of personal information.

POPI regulates the processing of personal information by public and private bodies in a manner that gives effect to the right to privacy subject to justifiable limitations that are aimed at protecting other rights and important interests.

The Promotion of Access to Information Act ("PAIA") has as its purpose to promote the right of access to information and to foster a culture of transparency and accountability in South Africa and is aimed at encouraging an open democracy.

The purpose of this manual is to explain what records we hold and how a member of the public (this does not apply to members of the Home Owners Association or service providers of the Home Owners Association) can obtain access to records if needed by them in order to exercise or protect their rights.

2. HERON HILL GARDEN ESTATE HOME OWNERS ASSOCIATION(NPC)

HERON HILL GARDEN ESTATE Home Owners Association is a non-profit legal entity, established in terms of the Companies Act, whereby the Directors act in a position of trust and manage the affairs of the scheme. The Directors have appointed a Managing Agent, in terms of the Act, to assist them in the performance of their duties.

3. CONTACT DETAILS OF THE INFORMATION OFFICER – SECTION 51 (1)(a)

3.1 The responsibility for the administration of and compliance with the Act, has been delegated by the head of the Home Owners Association, to the General and IT manager of the Managing Agent, who serves as the Scheme's registered Information Officer. The authorization of Information Officer is attached hereto as Annexure "A". The contact details of the Information Officer are provided in Annexure "B".

3.2 The acceptance by the Information Officer of the position as delegated is subject to the continued appointment of the Managing Agent and should such appointment be terminated, the appointment and acceptance of the Information Officer role will similarly terminate.

4. RECORDS

4.1 RECORDS AVAILABLE AND HELD IN TERMS OF OTHER LEGISLATION-SECTION 51(1)(d)

Where applicable to operations, records and documents are retained in terms of the legislation listed below. Records that are required to be made available in terms of these Acts shall be made available for inspection by interested parties in terms of the requirements and conditions of the applicable Act. A request to access must be done in accordance with the prescriptions of the Act.

Applicable Legislation comprises:

- 4.1.1 Basic Conditions of Employment Act no 75 of 1997
- 4.1.2 Companies Act, no 71 of 2008
- 4.1.3 Compensation for Occupational Injuries and Diseases Act no 130 of 1993
- 4.1.4 Debt Collectors Act no 114 of 1998
- 4.1.5 Electronic Communications and Transactions Act no 25 of 2002
- 4.1.6 Employment Equity Act no 55 of 1998
- 4.1.7 Estate Agency Affairs Act no 112 of 1976
- 4.1.8 Financial Intelligence Centre Act, no 38 of 2001
- 4.1.9 Income Tax Act no 58 of 1962
- 4.1.10 Insurance Act no 27 of 1943
- 4.1.11 Labour Relations Act no 66 of 1995
- 4.1.12 Occupational Health & Safety Act no 85 of 1993
- 4.1.13 Promotion of Access to Information Act no 2 of 2000
- 4.1.14 Property Practitioners Act no 22 of 2019
- 4.1.15 Protection of Personal Information Act no 4 of 2013
- 4.1.16 Sectional Title Schemes Management Act no 8 of 2011
- 4.1.17 Skills Development Act no 97 of 1999
- 4.1.18 Skills Development Levy Act no 9 of 1999
- 4.1.19 Unemployment Contributions Act no 4 of 2002
- 4.1.20 Unemployment Insurance no Act 63 of 2001
- 4.1.21 Value-added Tax Act no 89 of 1991

4.2 RECORDS AVAILABLE WITHOUT REQUIRING A REQUEST IN TERMS OF THE PROCEDURES OF THIS MANUAL-SECTION 51(1)(c)

Records of a public nature which are in the public domain such as displayed on a website, may be accessed without the need to submit a formal application.

Other non-confidential records, such as statutory records maintained at CIPC, may also be accessed without the need to submit a formal application.

4.3 RECORDS AVAILABLE ONLY ON REQUEST TO ACCESS THEM - SECTION 51 (1)(e)

4.3.1 The main categories of records which the Home Owners Association holds are as follows:

- 4.3.1.1 Agreements with Service Providers and Contractors

- 4.3.1.1 Bank Statements
- 4.3.1.2 Client Levy Statements
- 4.3.1.3 Correspondence
- 4.3.1.4 Financial Records
- 4.3.1.5 Insurance policy claims information records
- 4.3.1.6 Memorandum of Incorporation and Estate Rules
- 4.3.1.7 Minutes of meetings
- 4.3.1.8 Owner / member database records
- 4.3.1.10 Personnel records
- 4.3.1.11 Rental and Marketing Information
- 4.3.1.12 Resolutions Taken
- 4.3.1.13 Service providers and contractor's records
- 4.3.1.14 Statutory records

4.3.2 Note that the accessibility to these records may be subject to the grounds of refusal as set out in this PAIA Manual.

5. ACCESS TO OUR RECORDS

5.1 RIGHT OF ACCESS

The Act entitles you to have access to the records, **provided that:**

- 5.1.1 Access is required to exercise or protect any of your rights, **and**
- 5.1.2 You apply for access according to the procedures set out in this manual, **and**
- 5.1.3 We do not have grounds to refuse you access.

5.2 REFUSAL OF ACCESS TO RECORDS

A private body is entitled to refuse a request for information. The **main grounds to refuse** a request for information would be where:

- 5.2.1 The record would unreasonably disclose personal information of a third party who is a natural or juristic person, including a deceased individual (Section 63).
- 5.2.2 The record contains:
 - 5.2.2.1 Commercial information of a third party (Section 64) comprising:
 - 5.2.2.1.1 Trade secrets, or

- 5.2.2.1.2 Financial, commercial, scientific or technical information, or
- 5.2.2.1.3 Information about research by a third party which could put that third party at a disadvantage in a negotiation or prejudice it in competition or otherwise put it at a disadvantage.
- 5.2.2.2 Confidential information of third parties protected in terms of any agreement (Section 65).
- 5.2.3 Where publication of the record could endanger the safety of individuals or the protection of property (Section 66).
- 5.2.4 Where the record is privileged from being produced as evidence in legal proceedings (Section 67).
- 5.2.5 Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable allocation of resources shall be refused.

All requests for information will be assessed on their own merits and in accordance with the applicable legal principals and legislations.

If a requested record cannot be found or if a record does not exist, the Information Officer shall by way of affirmation, notify you that it is not possible to give access to the requested record. If the record should later be found, you will be given access to the record in the manner as stipulated by you in the prescribed form, unless the Information Officer refuses access to such record.

5.3 NOTICE IN TERMS OF SECTION 52 OF THE ACT

No notice has been published in terms of Section 52 of the Act, which means that, except for those items listed in 4.1 and 4.2 above, we will grant access to our records only in terms of this manual.

5.4 SOUTH AFRICA HUMAN RIGHTS COMMISSION - SECTION 10 GUIDE

The South African Human Rights Commission has published a guide (under Section 10 of the Act) explaining the Act and how it works. For further details, contact the SAHRC directly through their website www.sahrc.org.za.

6. HOW TO APPLY FOR ACCESS

6.1 FILL IN A REQUEST FORM.

If you want to obtain access to any of the records listed in this manual, you are required to complete the application form contained in Section 7 of this manual.

6.2 SUBMIT THE FORM AND THE REQUEST FEE.

Hand in the completed application form along with payment of the non-refundable request fee as per the fee schedule, attached hereto as **Annexure**

“C”, at the office of the Managing Agent and addressed to the Information Officer. Details of the Information Officer are attached under Annexure “B”.

If you cannot visit the Managing Agent’s office in person, you can email the form and transfer the fee electronically to us, or you can contact us to make alternative arrangements.

If you are an employee or ex-employee requesting access to your personnel records, then you do not have to pay the request fee.

6.1 DECISION.

We will consider your request and let you know our decision, in writing, not more than 30 days after we receive your request.

Our response will probably be one of the following:

6.3.1 Your application does not contain enough information to enable us to search for the record you want or clearly explain the right you wish to exercise or protect. Please provide additional details.

6.3.2 It is going to take us more than six hours to search through our records, and before we do so you must pay us a deposit as set out in Annexure C.

6.3.3 We have found the record you're looking for, and you may have access to it, on payment of:

6.3.3.1 an access fee as set out in Annexure C per hour for the time that it took us to find the record (less any deposit which you have already paid), and

6.3.3.2 a reproduction fee for making photocopies or printouts or copying the record onto a memory stick - the fees are set out in Annexure C.

Note: we will not charge fees to an employee or ex-employee requesting access to his/her personnel record.

6.3.4 You may not have access to the record you want, for reasons which we will state in our reply. If you have paid a deposit, we will refund it (but not the request fee).

6.3.5 We have searched for the record and cannot find it. We will give you affirmation explaining what steps we took to try and find the record. Should the missing record later come to light, we will notify you.

7. APPLICATION FORM

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 HERON HILL GARDEN ESTATE INFORMATION OFFICER AS PER ANNEXURE B

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 email in the republic to which the information is to be sent must be given.
- c) Proof of capacity in which the request is made, if applicable must be attached.

Full Names and Surname: _____

Identity Number: _____

Postal Address: _____

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 **ONLY** if a request for information is made on behalf of another person. Proof is required for authority in the form of a letter of authorization from the person on whose behalf the request is made and a certificated copy of the identification of the requester and the person on whose behalf the request is made is required.

Full Names and Surname: _____

Identity Number: _____

A. PARTICULARS OF RECORD

- a) Provide full particulars of the record to which access is requested, including the reference number if that is know 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 requested must sign all the additional folios.

1. Description of record or relevant part of the record:

2. Reference number, if applicable:

3. Any further particulars of record:

B. 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 must simultaneously pay the amount required to be paid as the request fee, as set out in Annexure "C".
- 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 for exemption.

Reason for exemption:

C. FORM OF ACCESS TO RECORD

If you have a disability which prevents you from reading, viewing or listening to the record in any of the forms of access listed in sections 1 to 4 hereunder, please state your disability and indicate the form in which you require the record:

Disability:

Form in which record is required:

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 which case you will be informed if access will be granted in another form.*
- (c) The fee payable for access to the record will partly be determined by the form in which access is requested.*

Mark the appropriate box with an X:

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

copy of the record

inspection of the record

2. If the record consists of visual images (including photographs, slides, video recordings, computer-generated images, sketches etc):

view the images

copy of the images

transcription of the images

3. If the record consists of recorded words or information which can be reproduced in sound:

listen to soundtrack
(audio cassette)

transcription of soundtrack (written or printed)

4. If the record is held on a computer, or in electronic or machine-readable form:

printed copy of record
from the record

printed copy of information derived

copy in machine-readable form (stiffy or compact disc)

If you have requested the record in any of the forms marked **• YES • NO**
do you want it to be posted to you? If so, postage will be payable.

A. 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:

1. Explain why the record requested is required for the exercise or protection of the aforementioned right:

A. 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 OF _____ 20__

SIGNATURE OF REQUESTER / PERSON ON
WHOSE BEHALF THE REQUEST IS MADE

ANNEXURE C

AUTHORISATION OF INFORMATION OFFICER

(In terms of the Promotion of Access to Information Act, 2000)

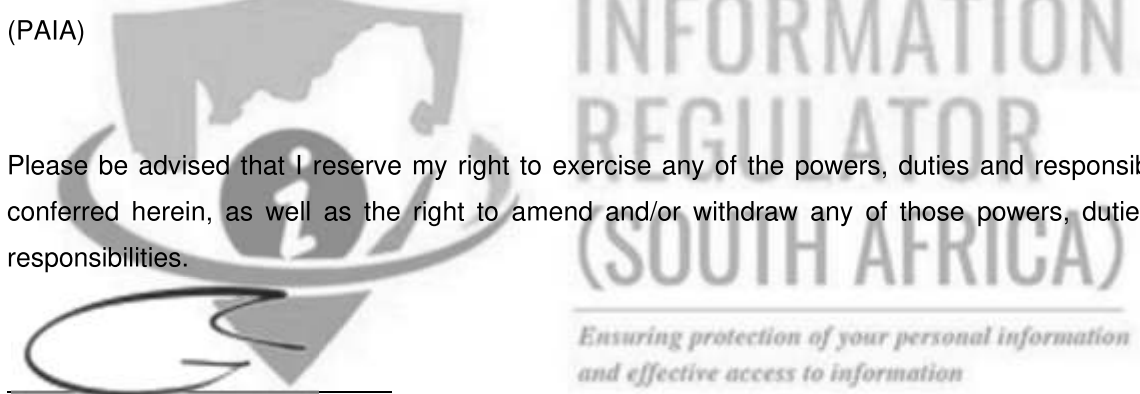
I, the undersigned,

L. Gerber

(Name of the Information Officer)

hereby authorise Harm Potgieter (name of the person being designated) as an Information Officer of **Heron Hill Garden Estate HOA** (name of the body or responsible party) and authorise you to exercise any of the powers, duties and responsibilities conferred or imposed on me by the Protection of Personal Information Act, 2013 and the Promotion of Access to Information Act, 2000 (PAIA)

Please be advised that I reserve my right to exercise any of the powers, duties and responsibilities conferred herein, as well as the right to amend and/or withdraw any of those powers, duties and responsibilities.



Information Officer

By my signature herein below, I hereby accept the authorisation as an Information Officer.

Harm Potgieter

(Name of the person authorised)

Designation: Pretor General and IT Manager

Date:

Signature:

ANNEXURE B

As the Head of the Home Owners Association(NPC) has elected to delegate the responsibility to the below nominated Information Officer, any requests should be directed to him:

Name of Body:	Pretor Group (Pty) Ltd
Contact Person:	Harm Potgieter
Designation:	General and IT Manager
Physical address:	River Falls Office Park 262 Rose Avenue Doringkloof 0157
Phone number:	012 001 9000
Email:	harp@pretor.co.za

ANNEXURE C

Payment of fees is regulated in terms of Section 54 of the Promotion of Access to Information Act

1. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1.10 for every photocopy of A4-size page thereof
2. The fees for the reproduction referred to in regulation 11(1) or payable by a requested referred to in regulation 11(3) ,are as follows:

For every photocopy of an A4-size page or part thereof	R1.10
For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75
For a computer-readable form	R70.00
For a transcription of visual images, for an A4-size part or part thereof	R40.00
For a copy of visual images	R60.00
For the transcription of an audio record, for an A4-size part or part thereof	R20.00
For a copy of an audio record	R30.00

3. The request fee payable by a requestor, other than a personal requestor, referred to in regulation 11(2) is R50.00
4. To search for an prepare the record for disclosure, R30.00 for each hour or part of an hour reasonable required for such search and preparation
5. The following applies:
 - 6.1. Six hours as the hours to be exceeded before a deposit is payable; and
 - 6.2. One third of the access fee is payable as a deposit by the requester
6. The actual postage is payable when a copy of a record must be posted to a requester