

**ELAWINI**

LUXURY RESIDENTIAL ESTATE

EST 2007

**INFORMATION MANUAL:  
ELAWINI VILLAGE BODY CORPORATE  
(SS65/13, SS28/14 & SS32/15)**

***IN TERMS OF SECTION 51 OF THE  
PROMOTION OF ACCESS TO INFORMATION  
ACT NO. 2 OF 2000  
("THE ACT")***

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## 1. INTRODUCTION

- 1) Elawini Village Body Corporate, Sectional Title Schemes SS65/13, SS28/14 and SS32/15, is a private body, established in terms of Section 2 of the Sectional Title Schemes Management Act No.8 of 2011.
- 2) The Promotion of Access to Information Act, No. 2 of 2000 (“the Act”) was enacted on 3 February 2000, giving effect to the Constitutional right of access to any information in terms of Section 32 of the Bill of Rights contained in the Constitution of the Republic of South Africa, 108 of 1996 (“the Constitution”).
- 3) Section 51 of the Act provides that all private bodies, as defined in Section 1 of the Act, are required to compile an information manual in accordance with the Act (“Information Manual”).

## 2. PURPOSE OF INFORMATION MANUAL

- 1) This Information Manual is intended to ensure that the Body Corporate complies with the Act and is transparent and accountable, by giving effect to the right of access to information.
- 2) Section 9 of the Act recognises that the right of access to information cannot be unlimited and should be subject to certain justifiable limitations, including but not limited to:-
  - a) limitations aimed at the reasonable protection of privacy;
  - b) commercial confidentiality;
  - c) effective, efficient and good governance; and
  - d) in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights.

This Information Manual complies with the requirements of Section 10 of the Act and recognises that in terms of the Protection of Personal Information Act No.4 of 2013 (“the POPI Act”), the appointed Information Officer will be responsible to regulate compliance with the Act and the Regulations thereto.

### 3. CONTACT DETAILS OF BODY CORPORATE

Trustees: O Cowell, MT Makhweyane and M Williams  
Chairman: O Cowell  
Information Officer: Mr. Byrne David Frank Millard  
Postal Address:   
Street Address: ERF 947 Riverside Park, Ext 5 JT  
Telephone Number: 013 590 0612  
Managing Agent: Pro Property Management  
Contact Person: Byrne David Frank Millard  
Email: manager@elawini.co.za  
Contact Telephone: 082 787 8630

### 4. SOUTH AFRICAN HUMAN RIGHTS COMMISSION GUIDE (“THE GUIDE”) ON HOW TO USE THE ACT IN TERMS OF SECTION 10 OF THE ACT

- 1) The South African Human Rights Commission (“SAHRC”), has compiled the Guide, as required in terms of Section 10 of the Act. The Guide contains information on how to use the Act and includes and describes:-
  - a) the objectives of the Act;
  - b) particulars of every information officer of every private body, such particulars of every private body as are practicable;
  - c) the manner and form for requests for access to records of private bodies;
  - d) the assistance available from the head of the Body Corporate and Human Rights Commission in terms of the Act;
  - e) All remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by the Act; and
  - f) the Regulations promulgated under the Act.

- 2) The Act grants a requester access to records of the Body Corporate, if the record is required for the exercise or protection of any rights.
- 3) 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) Requests are to be submitted to the Information Officer, alternatively, the Managing Agent.

Requesters are referred to the Guide in terms of Section 10 of the Act, which has been compiled by the South African Human Rights Commission, and contains information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC. 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](http://www.sahrc.org.za)

The guide is available for inspection on its website at [www.sahrc.org.za](http://www.sahrc.org.za).

## 5. APPLICABLE LEGISLATION

No	Ref	Act
1.	No 95 of 1986	Sectional Titles Act
2.	No 8 of 2011	Sectional Titles Schemes Management Act and the Prescribed Management and Conduct Rules promulgated thereunder
3.	No 9 of 2011	Community Schemes Ombud Services Act
4.	No 2 of 2000	Promotion of Access to Information Act
5.	No 4 of 2013	Protection of Personal Information Act

**Prescribed Management Rule 26(2):**

*“On the application of any member, registered bondholder or managing agent, the body corporate must make all or any of the books of accounts and records available for inspection and copying.”*

**Prescribed Management Rule 27(2)(b):**

*“The Body Corporate must prepare and update the following records – list of Trustees, members and tenants with their:*

- i. Full names;*
- ii. Identity numbers, or in case of non-South Africans, their passport numbers;*
- iii. Section addresses and mailing addresses;*
- iv. Telephone numbers; and*
- v. E-mail or other electronic addresses.”*

**Prescribed Management Rule 27(4):**

*“On receiving a written request, the body corporate must make the records and documents referred to in this rule available for inspection by, and provide copies of them to:-*

- a) a member;*
- b) a registered bondholder; or*
- c) a person authorised in writing by a member or registered bondholder.”*

**Section 3(1)(n) of the Sectional Titles Schemes Management Act 8 of 2011:**

*“A Body Corporate’s functions include complying with any **reasonable request** for the names and addresses of the persons who are the Trustees of the Body Corporate in terms of the rules or who are members of the Body Corporate.”*

## 6. SCHEDULE OF RECORDS

Records	Subject	Availability
Financial	Financial Statements, Management Accounts, Books of Account, Invoices.	Request from Information Officer/Managing Agent
Notices and Minutes of all Meetings	Members' and Trustees' Meetings.	Request from Information Officer/Managing Agent
Resolutions	Members' and Trustees' Resolutions.	Request from Information Officer/Managing Agent
Members'/Trustees'/ Tenants' details	Names, Identity Numbers, Addresses, Contact Details, Banking Details.	Request from Information Officer/Managing Agent
Personnel Records	Identity Documents, Contracts, Correspondence.	Request from Information Officer/Managing Agent
Other	Conduct and Management Rules.  Visitors' details, drivers license details and identification / passport numbers.	Request from Information Officer/Managing Agent

## **7. FORM OF REQUEST (SECTION 51 (1)(e))**

To facilitate the processing of your request, kindly:

- 1) Use the prescribed form, available on the website of the South African Human Rights Commission at [www.sahrc.org.za](http://www.sahrc.org.za) and attached hereto, for convenience.
- 2) Address your request to the Information Officer alternatively, the Managing Agent.
- 3) Provide sufficient details to enable the Body Corporate to identify:
  - a) The record(s) requested;
  - b) The requester (if an agent is lodging the request, proof of capacity);
  - c) The form of access required;
  - d) The postal address or fax number of the requester in the Republic;
  - e) If the requester wishes to be informed of the decision in any manner (in addition to written) the manner and particulars thereof;
  - f) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.
  - g) The reasons for making such a request.
- 4) The requester shall be advised whether access is granted or denied in writing. If, in addition, the requester requires the reasons for the decision in any other manner, the requester will be obliged to state which manner and the particulars required.
- 5) If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Body Corporate.
- 6) If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request verbally.



## **8. PRESCRIBED FEES**

The following applies to requests (other than personal requests):

- 1) There is no prescribed fee for requesting access to this information manual, unless the manual is being requested directly from the SAHRC, in which case, the prescribed fee shall be payable.
- 2) If copies are required, the requester will be liable for reasonable photocopying charges, which charges must be paid before copies will be made available.
- 3) If the preparation of the record requested requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request were granted); and
- 4) Records may be withheld until the fees have been paid.

## **9. PROTECTION OF PERSONAL INFORMATION ACT NO. 4 OF 2013 (“THE POPI ACT”)**

- 1) The purpose of processing personal information, a description of the categories of data subjects and of the information or categories of information relating thereto, the recipients or categories of recipients to whom the personal information may be supplied, and a general description allowing a preliminary assessment of the suitability of the information security measures to be implemented by the responsible party to ensure the confidentiality, integrity and availability of the personal information which is to be processed, is contained in the Body Corporate’s Privacy Policy.
- 2) A copy of the Body Corporate’s Privacy Policy is available from the Information Officer, upon request.

## **10. DECISION ON REQUEST AND NOTIFICATION THEREOF (SECTIONS 56, 57 AND 58 OF THE ACT)**

- 1) The Body Corporate, to whom the request is made, shall, as soon as reasonably possible decide in accordance with the Act, whether to grant the request and notify the requester of the decision.

- 2) Should the request for access be granted, the Body Corporate, on notice to the requester, shall set out the access fee, if any, to be paid upon access and the form in which the access will be given.
- 3) Should the request for access be refused, the Body Corporate, on notice to the requester, shall state the adequate reasons for the refusal, and exclude, from any such reasons, any reference to the content of the record.
- 4) In the event that the Body Corporate fails to give the decision on a request for access to the requester within the period contemplated, the head of the Body Corporate is regarded as having refused the request.
- 5) Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.
- 6) All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation.
- 7) If the requested record cannot be found or if the record does not exist, the Body Corporate shall notify the requester that it is not possible to give access to the requested record. Such a notice will be regarded as a decision to refuse a request for access to the record concerned for the purpose of the Act. If the record 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 the head of the Body Corporate refuses access to such record.

## **11. REFUSAL OF ACCESS TO RECORDS**

- 1) The Body Corporate is entitled to refuse a request for information, amongst others which relates to the:
  - a) Mandatory protection of the privacy of a third party who is a natural person and includes deceased persons (Section 63) or a juristic person, as included in the POPI Act, which would involve the unreasonable disclosure of personal information of that natural juristic person;
  - b) Mandatory protection of personal information and for disclosure of any personal information to, in addition to any other legislative, regulatory or contractual agreements, comply with the provisions of the POPI Act;

- c) Mandatory protection of the commercial information of a third party (Section 64), if the record contains:
  - i. Trade secrets,
  - ii. financial, commercial, scientific or technical information which disclosure could likely cause harm to the harm to the financial or commercial interests of that third party; or
  - iii. information disclosed in confidence by a third party, the disclosure of which could put that third party at a disadvantage in negotiations or commercial competition;
- d) Mandatory protection of confidential information of third parties (Section 65) if it is protected in terms of any agreement;
- e) Mandatory protection of the safety of individuals and protection of property (Section 66);
- f) Mandatory protection of record which would be regarded as privileged in legal proceedings (Section 67);
- g) Mandatory protection of commercial information of a private body (Section 68).

## **12. REMEDIES AVAILABLE WHEN THE BODY CORPORATE REFUSES A REQUEST**

The Body Corporate does not have internal appeal procedures. The decision made by the Body Corporate is final. Requesters may exercise such external remedies at their disposal, if their request for information is refused and the requestor is not satisfied with the answer supplied by the Body Corporate.

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## 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**

- |     |  |
|-----|--|
| (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.           |
| (b) | You will be <i>notified</i> of the amount required to be paid as the request fee.  |
| (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. |
| (d) | If you qualify for exemption of the payment of any fee, please state the reason for exemption.   |

Reason for exemption from payment of fees:

**F. Form of access to 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.
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Disability:	Form in which record is required
Mark the appropriate box with an X.	
<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>	

<b>1. If the record is in written or printed form:</b>					
<input type="checkbox"/>	copy of record*	<input type="checkbox"/>	inspection of record		
<b>2. If record consists of visual images</b> this includes photographs, slides, video recordings, computer-generated images, sketches, etc)					
<input type="checkbox"/>	view the images	<input type="checkbox"/>	copy of the images"		
<input type="checkbox"/>		<input type="checkbox"/>	transcription of the images*		
<b>3. If record consists of recorded words or information which can be reproduced in sound:</b>					
<input type="checkbox"/>	listen to the soundtrack audio cassette	<input type="checkbox"/>	transcription of soundtrack* written or printed document		
<b>4. If record is held on computer or in an electronic or machine-readable form:</b>					
<input type="checkbox"/>	printed copy of record*	<input type="checkbox"/>	printed copy of information derived from the record"		
<input type="checkbox"/>		<input type="checkbox"/>	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? Postage is payable.			<table border="1"> <tr> <td>YES</td> <td>NO</td> </tr> </table>	YES	NO
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 of .....202\_

SIGNATURE OF REQUESTER / PERSON ON  
WHOSE BEHALF REQUEST IS MADE