

Protection of Personal Information Privacy Policy

Dated: _____

NAME OF BODY: **ELAWINI HOMEOWNERS' ASSOCIATION (RF) (NPC)**

REGISTRATION NO.: **2007/005261/08**

PHYSICAL ADDRESS: **1 ELAWINI BOULEVARD, WILD BERRY STREET, RIVERSIDE EXT 5,
NELSPRUIT, 1226**

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INFORMATION OFFICER: **ESTATE MANAGER**
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Elawini Homeowners' Association ("the HOA") is a Non-Profit Company with members. Its main object is to protect and advance the communal interests of Members, occupants and other users of Elawini Estate. Its main business, ancillary to its main objective, includes, *inter alia*, managing, controlling and administering the Common Property; formulating and enforcing its Rules; controlling access to and from Elawini Estate; collecting Levies and contributions and, in general, to do all things necessary for the furtherance and promotion of any of the objects of the HOA and/or for the better management of the affairs of the HOA and/or for the advancement of the interests of Members and/or Residents of Elawini Estate.

In conducting its business, advancing its objectives and general functions, the HOA collects and processes Personal Information in accordance with its obligations in terms of its Memorandum of Incorporation and Rules ("MOI"), the Companies Act 71 of 2008 ("the Companies Act"), the Community Schemes Ombud Services Act 9 of 2011 ("the CSOS Act") and otherwise.

This policy complies with the Protection of Personal Information Act 4 of 2013 ("POPI Act"); the Promotion of Access to Information Act 2 of 2000 ("PAIA"); the Companies Act; the CSOS Act and good Corporate Governance Practices and, ensures that the Personal Information collected is accurate, complete and reasonable. This policy is intended to protect the personal and special personal information of directors, members, tenants, employees, visitors, contractors and other data subjects that is being processed by the HOA for the purpose of carrying on its objectives. Furthermore, this policy ensures that personal and special personal information is used only for legitimate and reasonable purposes and that it is processed lawfully by the HOA.

The **Key Risks** identified are breach of confidentiality of information, breach of security by allowing unauthorised access to the information and harm to individuals in the event of outdated or misleading information.

Personal Information includes:

Information relating to an identifiable, living, natural person, and where applicable, an identifiable, existing juristic person, including but not limited to: names; identifying numbers; race; gender and sex; pregnancy status; 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; email addresses; physical addresses; telephone numbers; biometric information and letters from or about a person that contain confidential information.



Processing includes involves any activity concerning:

The collection, receipt, recording, organising, storage, updating or modification, retrieval, alteration, consultation or use; dissemination and distribution; merging, linking, degradation and destroying of information.



Purpose of processing personal information:

Compliance with legislation, storage for record purposes, conducting business and advancing objectives of the HOA, as well as protecting and advancing the communal interest of Members, occupants and other users of the Estate.



SCOPE OF THE POPI ACT:

- **Lawfulness** – personal information must be processed lawfully, in a reasonable manner and, in a manner which does not infringe on the privacy of the data subject.
- **Minimality** – personal information may only be processed if, given the purpose for which it is processed, it is adequate and relevant and, it is not excessive.
- **Consent and Justification** – personal information may only be processed if, amongst other things:
 - The data subject consents to processing;
 - Processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party;
 - Processing complies with an obligation imposed by law;
 - Processing is necessary for pursuing the legitimate interests of the HOA or third party to whom the information is supplied.
- **Collection** – personal information must be collected directly from the data subject, unless:
 - The information is contained in or obtained from public record;
 - The collection of information from another source would not prejudice a legitimate interest of the individual;
 - The collection of information from another source is necessary;
 - Compliance would prejudice lawful purpose for the collection;
 - The collection from the individual is not reasonably practicable in the circumstances.

Who has access to this personal information?

- a. Auditors;
- b. Managing Agents and Portfolio managers;
- c. Service Providers;
- d. Registered bondholders;
- e. Members.

Certain information and details of Members already of Public record:-

- a. Member's full name;
- b. Member's Identity Number;
- c. All properties owned by the member;
- d. Details and purchase price of property;
- e. Mortgage Bonds registered over property.

INFORMATION POLICY

	OWNERS	TENANTS	DIRECTORS	VISITORS	STAFF
How Info collected	- Public records - Owner	Owner	Director	Visitor	Staff
What Info	- Full names; - Preferred names; - Date of Birth; - SA ID/Passport number; - Biometrics; - Nationality; - Gender; - Sex; - Language; - Cell phone numbers; - Work contact details; - Personal email addresses; - Physical Address; - Postal Address; - Vehicle registration, make, model & colour; - Details of Occupation.	- Full names; - Preferred names; - Date of Birth; - SA ID/Passport number; - Passport number; - Biometrics; - Nationality; - Gender; - Sex; - Language; - Cell phone numbers; - Work contact details; - Personal email addresses; - Physical Address; - Postal Address; - Vehicle registration, make, model & colour; - Details of Occupation.	- Full names; - Preferred names; - Date of Birth; - SA ID/Passport number; - Biometrics; - Nationality; - Gender; - Sex; - Language; - Cell phone numbers; - Work contact details; - Personal email addresses; - Physical Address; - Postal Address; - Vehicle registration, make, model & colour; - Details of Occupation.	- Initials and surname; - SA ID/Passport number; - ID Photograph; - Mobile phone number; - Vehicle colour, make, model and registration number; - Address/person being visited.	- Full names; - Preferred names; - Date of Birth; - SA ID/Passport number; - Passport number; - Biometrics; - Nationality; - Gender; - Sex; - Language; - Cell phone numbers; - Email addresses; - Physical Address; - Postal Address; - Bank Account details; - Vehicle registration, make, model & colour.
How Held	- Hard copy - Electronically	- Hard copy - Electronically	- Hard copy - Electronically	- Hardcopy - Electronically	- Hard copy - Electronically
Purpose	- Conduct business and objectives of the HOA. - Communication.	- Conduct business and objectives of the HOA. - Communication.	- Conduct business and objectives of the HOA. - Communication.	- Conduct business and objectives of the HOA. - Security.	- Conduct business and objectives of the HOA. - Communication.
Access	- As required in terms of Law. - As required in terms of MOI. - In accordance with the provisions of POPI.	- As required in terms of Law. - As required in terms of MOI. - In accordance with the provisions of POPI.	- Consent required. - In accordance with the provisions of POPI.	- Consent required. - In accordance with the provisions of POPI.	- Consent required. - In accordance with the provisions of POPI.

SAFETY & SECURITY MEASURES:

The HOA is legally obliged to provide adequate protection for the personal information it holds and to stop unauthorized access, use and misuse of personal information. The HOA, will, on an on-going basis, continue to review its security controls and related processes to ensure that your personal information remains secure. The HOA may disclose your personal information to its service providers who are involved in the delivery of products or services to you or other responsible third parties. The HOA has agreements in place to ensure that these service providers/third parties comply with the privacy requirements as required by POPI. Contracts are entered into with service providers, operators and third parties to ensure that the personal information that the HOA remains responsible for, is kept secure and that they agree to treat your personal information with the same level of protection as prescribed in POPI.

- Server room – biometric access control
- Layer 2 firewall
- MAC filtering
- Managed network switches
- Locked network cabinets with keys in a Lock Box.
- B-Bone 2400 VA uninterruptable power supply
- Kaspersky Small Office Security 6 on all machines
- All PCs and laptops have password protection
- Limited access to offices via lock and key
- Contact and passive alarm systems to cover the administration complex.
- Filing cabinets in locked offices
- CCTV on 32 channel XVR
- Armed Response

1. Personal Information may only be processed if, given the purpose for which it is processed, it is adequate, relevant and not excessive.
2. Members may be required to furnish the HOA with his/her details and that of all occupants.
3. Visitors' information may be collected and/or required upon entering the Scheme.
4. The consent of visitors and guests to process Personal Information shall be implied by their access to the Scheme and, they agree to be bound by the Scheme's Rules.
5. All Personal Information held in physical copies shall be kept safe and secure, to which only the Information Officer and/or his/her authorised representatives have access to.
6. The HOA and/or its Managing Agent shall have adequate safeguards in place in respect of all Personal Information kept electronically, which safeguards shall be reviewed regularly.
7. All contracts entered into by the HOA with third-parties shall be considered to ensure that each contract contains a clause in terms of which the parties undertake to comply with the provisions of POPI.
8. Staff members' Personal Information shall be retained for a period of three years after the staff member is no longer employed, whereafter, that information which is not in the public domain shall be destroyed.
9. Personal Information regarding members and/or occupants is to be retained for a period of seven years after the person is no longer a member or occupant of the Scheme, whereafter, that information which is not in the public domain shall be destroyed.
10. Visitors' details, if applicable, shall be retained for a period of three years.
11. Directors' information shall be kept indefinitely and for at least seven years.

DATA SUBJECTS' RIGHTS AND ACCESS TO PERSONAL INFORMATION :

1. Members/Occupants/Data Subjects have the right to request what Personal Information is being held and the right to access such Personal Information, upon a written request.
2. Members/Occupants/Data Subjects have the right to request that Personal Information be updated, corrected and/or deleted.
3. Members/Occupants/Data Subjects are to notify the Information Officer if any information is incorrect/outdated, and the correct/updated information is to be provided.
4. Access to another data subject's Personal Information will only be provided if the request for such information is in pursuit of the legitimate purpose for which it was obtained and/or in furtherance of the proper management and administration of the Scheme and/or with the written consent of such data subject.
5. If the information is not required in furtherance of the proper management and administration of the Scheme, or there is a reasonable possibility that it may not be, then the Personal Information will not be distributed without obtaining the prior written consent of the member/occupier/data subject concerned. If the consent is not obtained, the Personal Information shall not be provided.
6. In the event that the data subject requires his/her Personal Information be deleted, the Body Corporate may need to terminate all agreements with, and services rendered to the data subject. The Body Corporate may also refuse to delete the data subject's Personal Information if required by law to retain it, or in the event it needs to protect its rights.

REQUEST FOR ACCESS TO PERSONAL INFORMATION:

Any person making request for access to private information held by the HOA, must provide the following:

- a. His/her full details;
- b. Proof of Identity;
- c. Details of Information required;
- d. Reason information is required.

The Information Officer shall determine whether the request for information is reasonable and ought to be given in the circumstances.

Any Member may request access to the HOA's Information Manual in terms of Section 51 of PAIA.

Special personal information (ie. Biometrics, religion, race/ethnic origin, health status, sex life, alleged criminal offences) will not be processed and/or distributed, without the individual's specific consent.

FURTHER PROCESSING OF PERSONAL INFORMATION

1. Personal information may be processed in the following circumstances:-
 - a. When consent has been obtained from the data subject;
 - b. When there is a legitimate and lawful reason or purpose;
 - c. When processing is necessary for the safety and security of members of the HOA;
 - d. When it is required in terms of Law; and
 - e. Generally, in the pursuit of the legitimate interests of the HOA or third party to whom the information is supplied.
2. In line with the above, the HOA may disclose personal information to the following responsible third parties:-
 - a. Service Providers (the HOA shall ensure that written contracts are signed with these Service Providers to ensure the safety and confidentiality of your Personal Information);
 - b. Government and Law enforcement authorities;
 - c. Financial Institutions;
 - d. Other third parties where disclosure is required by Law or otherwise; and
 - e. To any other person with the express written consent of the data subject.

INFORMATION OFFICER:

The HOA will appoint a responsible person, the Information Officer to ensure compliance, by the HOA, and ensure that Personal Information is processed lawfully and in accordance with the conditions for lawful processing of Personal Information. The Information Officer's details will be announced from time-to-time and registered with the Information Regulator.

The Information Officer is to ensure that all Personal Information is accurate, complete and up to date. Members, Occupants and Data Subjects shall have access to Personal Information which the HOA holds, upon written request, which request must be reasonable.

The Information Officer will ensure that all Personal Information processed is secured and kept confidential at all times, save as where disclosure is required in terms of the Law. The Information Officer will also ensure that all Personal Information is kept safely and securely.

The Information Officer will notify persons as well as the Regulator immediately in the event of a breach.

INFORMATION OFFICER'S RESPONSIBILITIES:

1. Ensure compliance with the Privacy Policy and POPI;
2. Review this Privacy Policy periodically;
3. Ensure Personal Information is processed correctly in terms of the Privacy Policy and POPI;
4. Ensure that all Personal Information is accurate, complete and up to date;
5. Handle requests for access;
6. Provide access to Personal Information when required to do so;
7. Ensure adequate safeguards are in place;
8. Ensure that all Personal Information processed is secured and kept confidential at all times, save as where disclosure is required in terms of the Law;
9. Ensure all Personal Information is kept safely and securely;
10. Ensure all contracts with third parties contain a clause regarding POPI compliance;
11. Keep the HOA's Information Manual in a safe place;
12. Handle all aspects of relationship with the Information Regulator;
13. Assist Information Regulator in respect of any investigation;
14. Notify individuals as well as Regulator immediately in the event of a breach
15. Ensure Personal Information is destroyed when required.

CCTV SURVEILLANCE CAMERAS:

1. Cameras have been installed in the Estate. They are situated as per the layout sketch plan in Annexure "A" hereto.
2. The Information Officer is responsible for the control of the images, what is to be recorded and how images should be utilised.
3. In storing the footage, care is being taken that images cannot be corrupted, accessed without authorisation and that the footage is destroyed after a reasonable time.

ACCESS CONTROL:

1. Identity documents are requested from visitors by the guards at the guardhouse and details of visitor recorded.
2. The information is protected by the POPI Act, cannot be shared and is destroyed after a reasonable time period.

NOTABLE PROVISIONS OF THE HOA'S MOI:

- **Article 2 - Members' Right to Information:** *"A member has the right to information as set out in Section 26(1) of the Companies Act. A Member shall be entitled to the information as recorded in the Member's Register. Unless authorised by a Member, the Company shall not be entitled to disclose any further contact details".*



PERTINENT COMPANY LAW IN TERMS OF THE COMPANIES ACT:

Section 24 - form and standards for company records:

- 1) Any documents, accounts, books, writing, records or other information that a company is required to keep in terms of the Companies Act or any other public regulation must be kept:-
 - a) in written form, or other form or manner that allows that information to be converted into written form within a reasonable time; and
 - b) for a period of seven years, or any longer period of time specified in any other applicable public regulation, subject to subsection (2).
- 2) If a company has existed for a shorter time than contemplated in subsection (1) (b), the company is required to retain records for that shorter time.
- 3) Every company must maintain:-
 - a) a copy of its Memorandum of Incorporation, and any amendments or alterations to it, and any rules of the company made in terms of section 15 (3) to (5);
 - b) a record of its directors, including:-
 - i. all the information required in terms of subsection (5) in respect of each current director at any particular time; and
 - ii. with respect to each past director, the information required in terms of subparagraph (i), which must be retained for seven years after the past director retired from the company;
 - c) copies of all:-
 - i. reports presented at an annual general meeting of the company, for a period of seven years after the date of any such meeting;
 - ii. annual financial statements required by this Act, for seven years after the date on which each such particular statements were issued; and
 - iii. accounting records required by this Act, for the current financial year and for the previous seven completed financial years of the company;
 - d) notice and minutes of all shareholders meetings, including:-
 - i. all resolutions adopted by them; and
 - ii. any document that was made available by the company to the holders of securities in relation to each such resolution,
for seven years after the date each such resolution was adopted;
 - e) copies of any written communications sent generally by the company to all holders of any class of the company's securities, for a period of seven years after the date on which each such communication was issued; and

PERTINENT COMPANY LAW IN TERMS OF THE COMPANIES ACT CONTINUED:

- f. minutes of all meetings and resolutions of directors, or directors' committees, or the audit committee, if any, for a period of seven years after the date:-
 - i. of each such meeting; or
 - ii. on which each such resolution was adopted.
- 4) In addition to the requirements of subsection (3), every company must maintain:-
 - a) a securities register or its equivalent, as required by section 50, in the case of a profit company, or a member's register in the case of a non-profit company that has members; and
 - b) the records required in terms of section 85, if that section applies to the company.
- 5) A company's record of directors must include, in respect of each director, that person's:-
 - a) full name, and any former names;
 - b) identity number or, if the person does not have an identity number, the person's date of birth;
 - c) nationality and passport number, if the person is not a South African;
 - d) occupation;
 - e) date of their most recent election or appointment as director of the company;
 - f) name and registration number of every other company or foreign company of which the person is a director, and in the case of a foreign company, the nationality of that company; and
 - g) any other prescribed information.

Section 26 - Access to company records:

- 1) A person who holds or has a beneficial interest in any securities issued by a profit company, or who is a member of a non-profit company, has a right to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the following records of the company:
 - a) The company's Memorandum of Incorporation and any amendments to it, and any rules made by the company, as mentioned in section 24 (3) (a);
 - b) the records in respect of the company's directors, as mentioned in section 24 (3) (b);
 - c) the reports to annual meetings, and annual financial statements, as mentioned in section 24 (3) (c) (i) and (ii);
 - d) the notices and minutes of annual meetings, and communications mentioned in section 24 (3) (d) and (e), but the reference in section 24 (3) (d) to shareholders meetings, and the reference in section 24 (3) (e) to communications sent to holders of a company's securities, must be regarded in the case of a non-profit company as referring to a meeting of members, or communication to members, respectively; and
 - e) the securities register of a profit company, or the members register of a non-profit company that has members, as mentioned in section 24 (4).
- 2) A person not contemplated in subsection (1) has a right to inspect or copy the securities register of a profit company, or the members register of a non-profit company that has members, or the register of directors of a company, upon payment of an amount not exceeding the prescribed maximum fee for any such inspection.
- 3) In addition to the information rights set out in subsections (1) and (2), the Memorandum of Incorporation of a company may establish additional information rights of any person, with respect to any information pertaining to the company, but no such right may negate or diminish any mandatory protection of any record required by or in terms of Part 3 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

PERTINENT COMPANY LAW IN TERMS OF THE COMPANIES ACT CONTINUED:

- 4) A person may exercise the rights set out in subsection (1) or (2), or contemplated in subsection (3):
 - a) for a reasonable period during business hours;
 - b) by direct request made to a company in the prescribed manner, either in person or through an attorney or other personal representative designated in writing; or
 - c) in accordance with the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).
- 5) Where a company receives a request in terms of subsection (4) (b) it must within 14 business days comply with the request by providing the opportunity to inspect or copy the register concerned to the person making such request.
- 6) The register of members and register of directors of a company, must, during business hours for reasonable periods be open to inspection by any member, free of charge and by any other person, upon payment for each inspection of an amount not more than R100,00.
- 7) The rights of access to information set out in this section are in addition to, and not in substitution for, any rights a person may have to access information in terms of:
 - a) section 32 of the Constitution;
 - b) the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000); or
 - c) any other public regulation.
- 8) The Minister may make regulations respecting the exercise of the rights set out in this section.
- 9) It is an offence for a company to:
 - a. fail to accommodate any reasonable request for access, or to unreasonably refuse access, to any record that a person has a right to inspect or copy in terms of this section or section 31; or
 - b. to otherwise impede, interfere with, or attempt to frustrate, the reasonable exercise by any person of the rights set out in this section or section 31.

Key principles recognised:



ACCOUNTABILITY

The Information Officer and Directors are accountable for POPI compliance.



CONSENT

Processing of Personal Information is undertaken with explicit consent from the individual whose information is being processed or shared, alternatively, where no consent is required, in terms of an obligation in law to process such Personal Information or where processing is necessary for pursuing the legitimate interests of the HOA or third party to whom the Personal Information is supplied.



PURPOSE OF INFORMATION

Personal information is only processed for specific and legitimate purposes that relate to the functions or activities of the scheme. Information is kept for as long as it is required and is deleted thereafter.



FURTHER PROCESSING LIMITATION

Directors will not allow the database of Personal Information to be utilized for any other purpose not specifically related to the functioning of the scheme.



INFORMATION QUALITY

Information must constantly be assessed and updated.



OPENNESS

Owners, Directors, tenants and individuals have been notified of what Personal Information the HOA holds.



SECURITY SAFEGUARDS

The Information Officer and Directors ensure that Personal Information is kept safe and have implemented appropriate safeguards against identified risks. Operator agreements have been entered into with the Managing Agent, if applicable, and all other third parties. If a person's Personal Information has been compromised, that person will be notified as soon as reasonably possible.



OWNER/TENANT PARTICIPATION

Individuals can request access to Personal Information and the correction or deletion of any of their Personal Information.

DATA PRIVACY STATEMENT

The HOA undertakes to take reasonable steps to protect the confidentiality and security of personal information when it is disclosed to a third party and shall seek to ensure that the third party deals with the personal information in accordance with POPI and that it is used only for the purposes for which it was disclosed.

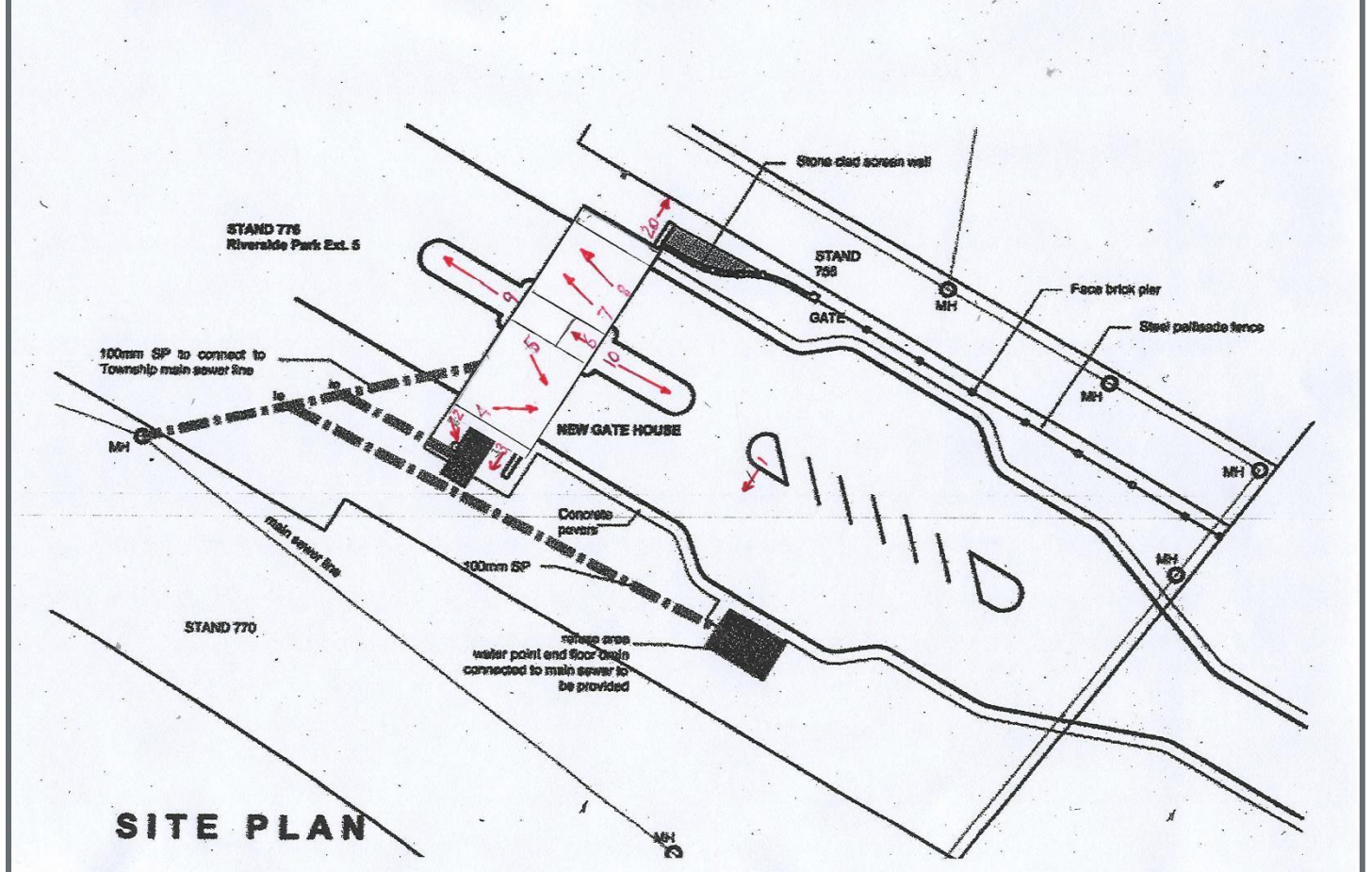
IMPLEMENTATION

The Information Officer together with the Directors of the HOA confirm of the contents hereof.

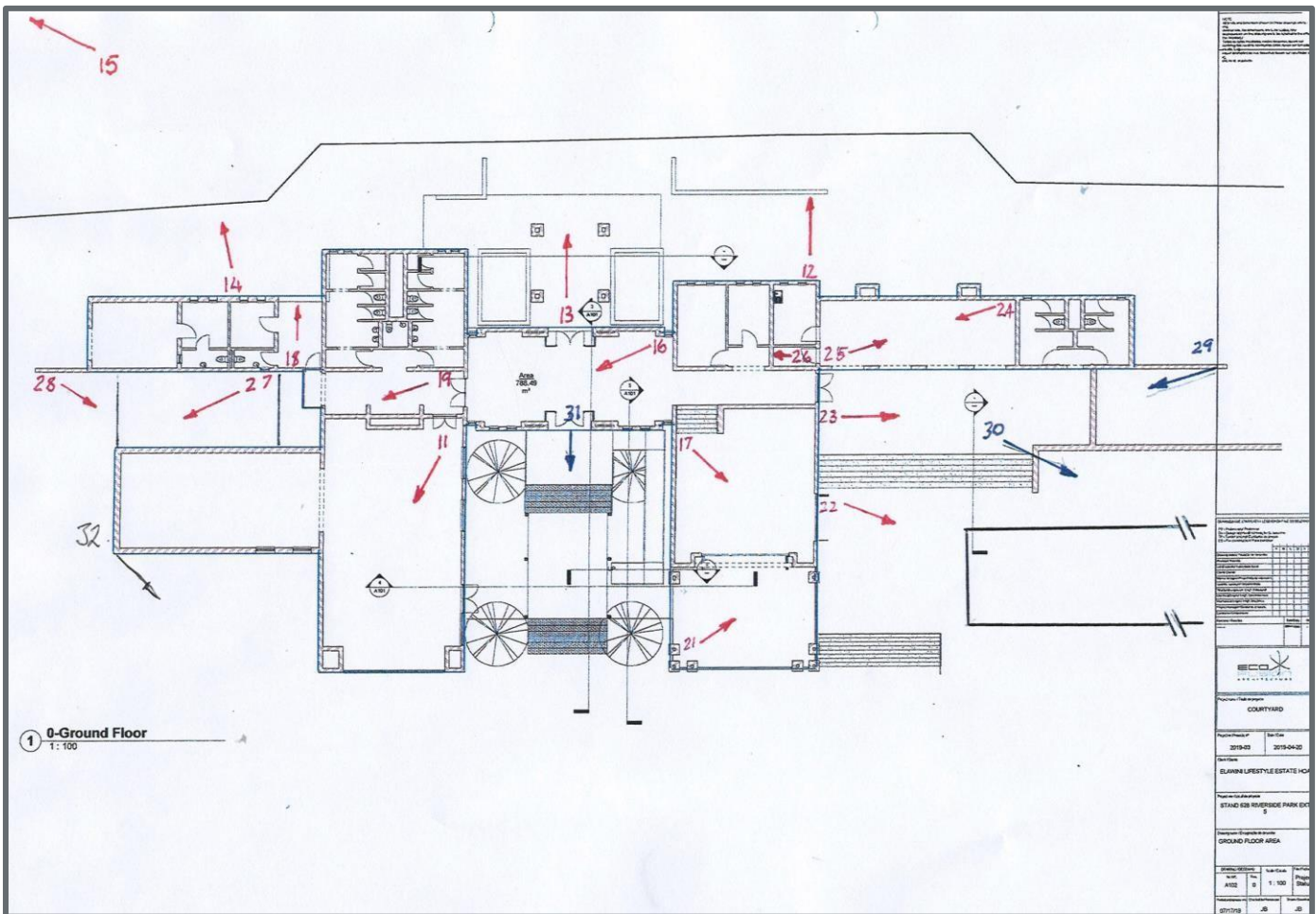
INFORMATION OFFICER

DATE: _____

SITE PLAN ELAWINI GATE HOUSE SCALE 1:2500



1. Intercom at visitors' entrance boom gate
2. Pedestrian turnstile internal
3. Pedestrian turnstile external
4. Resident vehicle lane entry
5. Visitors' vehicle lane entry
6. Guard room internal
7. Visitors' vehicle lane exit
8. Residents' vehicle lane exit
9. Approach to security gate internal
10. Approach to security gate external
20. Refuse House Door



- | | |
|--|--|
| 11. Gym interior | 23. Swimming pool area deck |
| 12. Elawini Boulevard Traffic Circle 1 | 24. Swimming pool area veranda 1 |
| 13. Parking Area | 25. Swimming pool area veranda 2 |
| 14. Tennis Court Access | 26. Server room |
| 15. Elawini Boulevard Traffic Circle 2 | 27. Storeroom internal |
| 16. Clubhouse reception | 28. Storeroom external |
| 17. Business Centre / Boardroom | 29. Swimming pool area deck 2 |
| 18. Gym access turnstile | 30. Swimming pool area 2 |
| 19. Gym passage | 31. Wheelchair ramp area and deck |
| 21. Business Centre/Boardroom veranda | 32. South East Corner of Squash Court Exterior |
| 22. Swimming pool area | |