

**THESEN ISLANDS  
HOMEOWNERS ASSOCIATION**

**SECTION 51(1) MANUAL**

**IN TERMS OF THE PROMOTION OF  
ACCESS TO INFORMATION ACT 2000**



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**MANUAL PREPARED IN TERMS OF SECTION 51(1) OF THE PROMOTION OF  
ACCESS TO INFORMATION ACT, 2000**

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## **SECTION 1 – INTRODUCTION**

The Promotion of Access to Information Act (the “Act”) was promulgated in March 2001. The Act aims to actively promote a society in which the people of South Africa have effective access to information, enabling them to more fully exercise and protect their rights.

Section 51(1) of the Act makes it the responsibility of all heads of private bodies (“companies”) to draw up a manual that provides information about the subjects and categories of records held by the Association.

Our Association’s manual provides a guide to the records we hold and the process that you must follow in order to access our records, if the Act says that we must make them available to you. All requests for access to information must be addressed to the contact person identified in Section 4 of this manual, as he is our designated Information Officer.

## **SECTION 2 – GUIDE TO ALL MANUALS IN TERMS OF SECTION 10 OF THE ACT**

The Human Rights Commission has compiled a guide that teaches you how to use the Act, which is available from the Human Rights Commission. You may address any further queries about the Act or your rights to:

The South African Human Rights Commission:  
PAIA Unit

The Research and Documentation Department

Physical Address: Braampark Forum 3  
33 Hoofd Street  
Braamfontein

Postal Address: Private Bag 2700  
Houghton  
2041

Phone: (011) 877 3600

Fax: (011) 403 0668

e-mail: [PAIA@zahrc.org.za](mailto:PAIA@zahrc.org.za)

Website: [www.sahrc.org.za](http://www.sahrc.org.za)

### **SECTION 3 – ENTITY OVERVIEW, STRUCTURE AND SCOPE OF THIS MANUAL**

The Thesen Islands Homeowners Association, is an association not for gain, with a constitution (“Association”) that protects the rights of all of its members residing at the Thesen Islands Residential Estate (“the Estate”); collects its levies, including ancillary charges and runs the common areas of the Estate. This manual only deals with the records held by the Association.

### **SECTION 4 – INFORMATION OFFICER**

Gina Oosthuysen the Administration Controller is appointed by the Association as its Information Officer who is responsible for ensuring that the requirements of the Act are administered in a fair, objective and unbiased manner for our Association. Please address all requests for access to records relating to the Association to:

Postal address: Thesen Islands Homeowners Association

PO Box 424

Knysna, 6570

Physical address: Long Street, Thesen Islands, Knysna

Phone number: (044) 382 2192

Fax Number: (044) 382 2190

E-mail: [tihoa@tihoa.co.za](mailto:tihoa@tihoa.co.za)

### **SECTION 5 – RECORDS HELD BY THE ASSOCIATION**

Our records are in paper and electronic form only. In terms of the Act, we must give access to our records, no matter what format they appear in.

Our Association holds the following records:

Administration	<ul style="list-style-type: none"> <li>• Banking Records</li> <li>• Association Founding Documents</li> <li>• Financial Statements</li> <li>• General Correspondence</li> <li>• Information relating to transactions of a financial nature (e.g. invoices and payments)</li> <li>• Employee Records</li> <li>• Employment Equity Records</li> <li>• Labour Relations Records</li> <li>• Resident Information</li> <li>• Statutory HR Records</li> <li>• Tax Records</li> </ul>
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**SECTION 6 – RECORDS THAT CAN BE ACCESSED WITHOUT A FORMAL REQUEST**

Some of the information listed can be accessed at the address set out in Section 4 above without a formal request. This information relates to the records of the Association in terms of the Companies Act 71 of 2008, as well as other prescriptive legislation.

In terms of the following Acts of Parliament, we must also ensure that the categories of records prescribed are available for access by the public:

- Basic Conditions of Employment Act No. 75 of 1997;
- Close Corporations Act No. 69 of 1984;
- Companies Act 71 of 2008;
- Constitution of the Republic of South Africa No.3 of 1994; and
- Income Tax Act No. 58 of 1962;
- Employment Equity Act No. 55 of 1998;
- Labour Relations Act No. 66 of 1995;
- Occupational Health and Safety Act No. 85 of 1993;

- South African Revenue Services Act, 34 of 1997.
- Value-Added Tax Act No. 89 of 1991;

Notification of the availability of these records in terms of these Acts of Parliament has not yet been given to the Cabinet Minister of Justice.

We have made every effort to identify all relevant legislation, but do not guarantee that all legislation has been included. If you know of any specific legislation that we should include, but have not, please contact the Information Officer of the Association. Your assistance in this regard is appreciated.

## **SECTION 7 – REQUEST PROCEDURE**

Procedure to follow when requesting access to a record in the documentation set out in Section 6 of this manual.

### **Telephonic requests**

Informal (telephonic) requests are not forbidden by the Act. Any such request made to the Information Officer at the telephone number given in this manual will be attended to unless the Information Officer indicates that the provisions of the Act must be carried out – in this case, Form C must be filled out.

### **Formal written requests**

This request must be in the prescribed format - Form C of Annexure B as identified in Government Notice Number 187, Regulation 6 - and must be sent to the Information Officer.

A copy of Form C of Annexure B can be found at the end of this manual and is available by e-mail or in hard copy at the address set out in Section 4 above.

The prescribed request fee must be attached (see Section 7 of this manual for more details on the fees).

Our Information Officer will respond to your request within *30 days* of receiving the request by indicating whether your request for access has been granted.

Please note that an application for access to information can be refused in the event that the application does not comply with the procedural requirements of the Act. In addition, the successful completion and submission of an access request form does not automatically allow the requestor access to the requested record.

The request form must be completed CLEARLY and COMPLETELY in block letters. If there is insufficient space on the printed request form in which to answer a question, additional information must be provided on a separate page that is clearly marked and referenced.

If access to a record/information is granted, our response will set out:

- An indication of the access fee that should be paid upon gaining access (if any);
- An indication of the form in which the access will be granted;
- A notice that you may lodge an application with the court against the access fee to be paid or the form of the access, including guidance on the procedure for lodging the application.

If access to a record/information is denied, our response will set out:

- Adequate reasons for the refusal; and
- Notice that you may lodge an application with the court against the refusal and the procedure including the period, for lodging the application. For details on the procedure, please refer to Chapter 2 of Part 4 of the Act.

Assuming your request for access is granted, you will be able to gain access to the requested records as soon as is reasonably possible and once the *access fee* has been paid.

Access will be granted to a record if the following criteria are met:

- The record is required for the exercise or protection of any right;

- You have properly followed the procedural requirements in the Act relating to a request; and
- Access to the record is not refused in terms of any ground for refusal set out in Chapter 4 of Part 3 of the Act.

### **Reasons for refusing a request for information**

Our Association holds private information regarding its members. We may refuse to give you your requested information if:

1. We must protect the privacy of a third party who is a natural person, and your request would involve the unreasonable disclosure of personal information of that person.
2. We must protect the commercial information of a Association, whether it be their trade secrets, financial information, working product information or any other confidential documentation of the Association or another.
3. We must protect the confidentiality of information given to us by any third person.

### **Request for access to information about third parties**

If you request access to a record that contains information about a third party, we are obliged to attempt to contact this third party to inform them of the request and to give them an opportunity to respond by either consenting to the access or by providing reasons why the access should be denied. In the event that the third party furnishes reasons for the support or denial of access, our designated Information Officer will consider these reasons in determining whether access should be granted.

## **SECTION 8 – FEES**

There are two basic types of fees applicable in terms of the Act – “request” and “access” fees.



The non-refundable request fee (currently R 50.00) is paid on submission of the request for access to a record (unless the request is personal in which event there is no applicable fee) and the access fee must be paid before you can actually gain access to the records in the required form.

The applicable fees are prescribed in terms of Part III of Annexure A as identified in Government Notice Number 187, Regulation 11, a copy of which can be found at the end of this manual.

No request may be processed unless the request fee where applicable has been paid – section 22(1) of the Act.

## **SECTION 9 – PAYMENT METHOD**

All payments shall be made in the form of cash payable at the address set out in Section 4 above or by deposit into the bank account of the Association.

You may contact our Information Officer managing agent for our bank details.

Please state the requester's (applicant's) surname, name and Initials.

## **SECTION 10 - REMEDIES AVAILABLE IF THE PROVISIONS OF THE ACT ARE NOT COMPLIED WITH**

The Act provides for an internal appeal procedure in terms of sections 74 and 75 (Part 4 of the Act).

The Minister of Justice is the relevant authority who will review any decision taken on appeal.

An aggrieved party still has an opportunity to approach the courts if dissatisfied with the decision of the relevant authority

## **SECTION 11 - UPDATING THE MANUAL**

The manual shall be updated on a regular basis as set out in Section 51(2) of the Act.

**SECTION 12 - AVAILABILITY OF THE MANUAL**

The manual is available at the address set out in Section 4 above and at the offices of the South African Human Rights Commission as set out in Section 2 above.