



MANUAL IN TERMS OF THE PROMOTION OF ACCESS TO
INFORMATION ACT, 2000 AND THE RELEVANT
REQUIREMENTS OUTLINED IN THE PROTECTION OF
PERSONAL INFORMATION ACT, 2013 READ WITH THE
REGULATIONS THERETO



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Document Management

Date	Version	Description	Signature
		First Release	Mamodupi Mohlala



1. PURPOSE

1.1 The purpose of this document is to serve as the Estate Agency Affairs Board (“EAAB”) manual (Manual) required in terms of the Promotion of Access to Information Act, 2000 (“Act”) and provide a reference as to the records held and the procedures that need to be followed to request access to such records.

1.2 In publishing and thereby making this record available on its website, the EAAB intends to comply with the various applicable aspects of the Protection of Personal Information Act, 2013 and the Regulations thereto (“POPIA”). These compliance requirements include but are not limited to:

1.2.1 **Regulation 4(1)(c) of POPIA** which requires that a manual is developed, monitored, maintained, and made available as prescribed in sections 14 and 51 of the Act.

1.2.2 **Regulation 4(1)(d) of POPIA** which requires that, “*internal measures are developed together with adequate systems to process requests for information or access thereto*”.

1.2.3 **Regulation 4(2) of POPIA** which requires that the Information Officer of EAAB makes a copy of the EAAB manual available upon request by a requester.

2. INTRODUCTION

This is EAAB’s Manual in terms of the Promotion of Access to Information Act, 2000. This Manual is published in terms of Section 14 of the Act. The Act gives effect to the provisions of Section 32 of the Constitution which provides for the right of access to information held by the State and to information held by another person that is required for the exercise and / or protection of any right. Through this Manual, the EAAB intends to make qualifying information available to the public. Other information may be under confidentiality and privacy limitations, in accordance with existing legislation such as the Protection of Personal Information Act, 2013. To this end, this Manual must be read with



Protection of Personal Information Act, 2013 and the Constitution of the Republic of South Africa, 1996, together with any other guidelines that are available on the South African Human Rights Commission's website, <http://www.sahrc.org.za>.

3. AVAILABILITY OF THE MANUAL

A copy of this Manual is available on our website, see www.eaab.org.za. The Manual can also be obtained by sending a request for a copy to the EAAB's Information Officer or Deputy Information Officer by email. The Manual may also be obtained from our office (at the address set out in paragraph 5 below) and the South African Human Rights Commission (SAHRC) at the address set out in paragraph 8 below.

4. UPDATING OF MANUAL

This Manual will be updated and published, if necessary, at intervals of not more than 1 (one) year as prescribed in the Act.

5. EAAB INFORMATION OFFICER DETAILS: Section 51(1)(a)

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6. EAAB FUNCTIONS AND STRUCTURE

6.1 Functions of EAAB

6.1.1 The Estate Agency Affairs Board (EAAB) was established in 1976 in terms of the Estate Agency Affairs Act, 112 of 1976, with the mandate to regulate and control certain activities of estate agents in the public interest; and for incidental matters. The EAAB regulates the estate agency profession by ensuring that all persons carrying out the activities of an estate agent as a service to the public are registered with the EAAB. A fidelity fund certificate, which is to be renewed each year, is issued as evidence of such registration and confirmation that such person is legally entitled to carry out the activities of an estate agent.

6.1.2 A core function of the EAAB is to manage and control the Estate Agents Fidelity Fund in the interest of the public and estate agents registered with the EAAB, which also includes the following:

- To maintain and promote the standards of conduct of estate agents;
- To manage the registration of qualified applications of estate agents;
- To issue fidelity fund certificates;
- To manage the educational and examination standards of the estate agents; and
- To regulate the activities of estate agents.

6.1.3 The mandate of the EAAB is built on five key regulatory pillars, namely:

- Registration;
- Education;
- Inspection and Investigation;
- Disciplinary and claims; and
- industry supervisory role in terms of the Finance Intelligence Centre Act.



6.1.4 The core function of the EAAB is to enforce industry compliance through effective regulation. The EAAB is therefore responsible for ensuring that all qualifying estate agents are issued with a valid fidelity fund certificate (FFC) on time for them to trade legally.

6.1.5 The EAAB is also responsible for the professionalization of the industry by ensuring that every person trading as an estate agent acquires the right qualifications as prescribed in the legislation that came into effect on 15 July 2008.

6.1.6 The EAAB is listed as a public entity in terms of the Public Finance Management Act (PFMA) Act 1 of 1999. This legislation places responsibility on the Board of the organisation, as the accounting authority, to manage the resources in a manner that encourages efficiencies and accountability for the use of public funds. A key responsibility is to present to the Executive Authority with an annual Strategic plan for a rolling three-year period. An additional responsibility conferred on the EAAB is to be supervisory body in terms of the Financial Intelligence Act.

6.2 Structure of EAAB

6.2.1 EAAB has Six (6) Divisions, namely:

- **Chief Financial Officer**, in charge of the following 3 units,
 - Finance & Administration
 - Supply Chain & Facilities
 - Administration of Fidelity Fund



- **Executive Manager: Corporate Services**, in charge of the following 5 units,
 - Human Resources
 - Marketing & Publications
 - Customer Relations
 - Consumer Protection
 - Legal Services

- **Executive Manager: Education & Training**, in charge of the following 3 units,
 - Education & Training of Estate Agents
 - Continuing Professional Development
 - Research & Knowledge

- **Executive Manager: Information & Technology**, in charge of 1 unit (ICT)
 - Information & Communication Technology (ICT)

- **Executive Manager: Transformation**, in charge of the following 2 units,
 - Real Estate Incubator Programmes
 - Transactional Support

- **Executive Manager: Enforcement & Compliance**, in charge of the following 4 units,
 - Registrations
 - Inspections & Audit Compliance
 - Complaints and Disciplinary
 - Claims & Section 27 Applications.



7. HOW TO REQUEST ACCESS TO RECORDS HELD BY EAAB

7.1 Records that may be requested

The records which can be requested by a requester would be any recorded information regardless of its form or medium which is in the possession or under the control of the EAAB whether or not it was created by the EAAB.

7.2 Request procedures

7.2.1 A requester shall be given access to a record held by the EAAB if:

- the requester complies with all the procedural requirements contemplated in the Act relating to a request, and
- access to that requested record is not refused in terms of any ground for refusal contemplated in the Act.

7.2.2 The right of a requester to access information in terms of the Act is subject to the Act, not affected by any reasons given by that requester, or any belief by the Information Officer as to what the reasons for the request may be.

7.2.4 Requests for access to records must be made to the Information Officer at the address, fax number or electronic mail address provided in paragraph 5 above.

7.2.5 The requester must provide sufficient detail on the request form to enable the Information Officer to identify the record/s requested and the requester. The requester should also indicate which form of access is required and indicate if he or she wishes to be informed of EAAB's decision regarding such request in addition to a written reply in any other manner and state the necessary particulars to be so informed. The requester must also state whether the record concerned is preferred in a particular official language and also specify his or her postal address or fax number in the Republic of South Africa.



7.2.6 If a request is made on behalf of a person, the requester must then submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the Information Officer.

7.2.7 Should an individual be unable to make a request for access to a record of the EAAB because of illiteracy or disability, he or she may make such a request orally. The Information Officer of the EAAB must then reduce the oral request to writing in the prescribed form and supply the requester with a copy thereof.

8. **THE ACT: Section 51 (1)(b)**

Requests in terms of the Act shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariffs are dealt with in paragraphs 10 and 11 of this Manual. 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 (“SAHRC”), which contains information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC or at their website at <http://www.sahrc.org.za/>. The contact details of the SAHRC are:

The South African Human Rights Commission

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33 Hoofd Street

Braamfontein, Johannesburg

Postal Address Private Bag X2700 Houghton, 2041

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Fax +27 11 403 0668

Website address www.sahrc.org.za



9. SCHEDULE OF RECORDS AVAILABLE: Section 51(1)(d)

9.1 The following categories of records are automatically available without a person having to request access in terms of this Act:

- 9.1.1. The EAAB's contact information.
- 9.1.2. Schedule of Fees and the EAAB's Banking Details.
- 9.1.3. Latest Notifications.
- 9.1.4. Archived Notifications.
- 9.1.5. Publications (agent magazine, annual report, brochures, Annual Performance Plan 2019-2020).
- 9.1.6. Five Year Strategic Plan 2019 – 2024.
- 9.1.7. How to interact with the EAAB if you are an Estate Agent.
- 9.1.8. Audit Compliance.
- 9.1.9. EAAB Practice Notes.
- 9.1.10. Financial Intelligence Centre.
- 9.1.11. Consumer Information.
- 9.1.12. Property Sector Charter Council.
- 9.1.13. Online Legal Complaint.
- 9.1.14. Whistle Blowers' Hotline.
- 9.1.15. Tenders.
- 9.1.16. Press releases.
- 9.1.17. Online Customer Surveys.
- 9.1.18. Services SETA Customer Care.



- 9.1.19 Knowledge Centre Library Hub.
- 9.1.20 Banks and Mortgage Originator's Contact Details.
- 9.1.21 Equality Pledge.
- 9.1.22 Terms and Conditions for the EAAB Website.

10. FORM OF REQUEST: Section 51 (1)(e)

- 10.1 To facilitate the processing of your request, kindly use **Form 2; Request for Access To Record (Regulation 7)** (this for, can be found on the following link to the Information Regulator's website, <https://justice.gov.za/inforeg/docs/forms/InfoRegSA-PAIA-Form02-Reg7.pdf>).
- 10.2 Form 2 must be completed with as much detail as possible. This will assist the EAAB to process your request as accurately and efficiently as possible.

11. PRESCRIBED FEES AND PROCEDURE: Section 51 (1)(f)

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

- 11.1 A requestor is required to pay the prescribed fees before a request is processed.
- 11.2 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).
- 11.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit.
- 11.4 Records may be withheld until the fees have been paid.



- 11.5 Please note that the correct completion and submission of a Request for Access form does not automatically entitle or allow the applicant access to the requested record. An application for access to a record is subject to certain limitations if the requested record falls within a category as specified in Part 3 Chapter 4 of the Act.
- 11.6 Please further note that if it is reasonably suspected that an applicant has obtained access to a record on the basis of the submission of materially incorrect, false or misleading information, legal proceedings may be instituted against such applicant. In the event that a request for access is successful an access fee will be payable for the search, reproduction and/or preparation of records and which will be calculated based on the fee prescribed under the Act, an extract of the details of which is attached at the end of this manual.

12. COMPLETION OF REQUEST FOR ACCESS FORM

12.1 Compliance Requirements

- 12.1.1 Subject to the provisions of the Act, access to records requested from EAAB will only be given if:
- All the procedural requirements set out in the Act relating to a request are met; and
 - Access to the requested record/s is not refused in terms of any grounds for refusal set out in the Act.

12.2 Request Application Process

The following steps are to be following when making an application for access to a record:

12.3 STEP 1: THE REQUEST

- 12.3.1 Should a person wish for access to information held by EAAB, the request form (see <https://justice.gov.za/inforeg/docs/forms/InfoRegSA-PAIA-Form02-Reg7.pdf>) must be



completed and submitted to EAAB's Information Officer (details may be obtained from EAAB's Manual). The requester must also indicate if they would like a copy of the record or if they would like to inspect the record at EAAB's premises.

12.3.2 The Information Officer must assist the requester with the request for access to ensure that the request complies with the requirements of the Act. The Information Officer may not refuse the request if it is not fully or correctly completed.

12.3.3 The Information Officer will notify the requester by means of a Notice of Procedural Deficiency of his or her intention to refuse the request. In such an event, the requester may be required, at the instance of the EAAB, to provide further particulars and/or clarifications regarding their request.

12.4 **STEP 2: VALIDATION AND ACKNOWLEDGEMENT**

12.4.1 The Information Officer receives and validates the request to ensure that the required information is available within the EAAB. The request is then accepted, rejected or transferred to the relevant division of the required information. A request for access will be granted unless it may be deferred or may be refused on the basis of grounds for refusal, mentioned in Chapter 4 of Part 2 of the Act.

12.4.2 A request for access will be granted unless it may be deferred or may be refused on the basis of grounds for refusal, mentioned in Chapter 4 of Part 2 of the Act.

12.4.3 A notification will also be issued to inform the requester of a request fee (if payable); the status of the request as well as issue the requester with a request number.

12.5 **STEP 3: INFORMATION PROCESSING**

If the request is granted, the EAAB will gather and prepare the information and calculate the relevant costs involved.



12.6 **STEP 4: FINAL NOTIFICATION**

The requester will be informed of the completion of the request as well as the outstanding fees payable to the EAAB.

12.7 **STEP 5: PAYMENT AND DELIVERY**

Once the payment (as stipulated in Step 4) has been received (including payment process in Step 1), the information will be released to the requester.

12.8 **General Information**

Requests for access to records held by the EAAB in its capacity as a public body must only be made on the request form as prescribed by the Act. The form is available in PDF format (for hand written requests) on the EAAB website.

12.9 The regulations and Section 18 of the Act require the requester to furnish the following information:

12.9.1 Particulars of the person requesting access to the records;

12.9.2 The form or manner of access sought as prescribed by section 29;

12.9.3 The particulars of the record which access is requested;

12.9.4 Contact information of the requester(postal address/fax number/email address);

12.9.5 Language specifications for the requested record;

12.9.6 If the requester is asking for information on behalf of someone else, the capacity in which the request is being made should be indicated;

12.9.7 Should the requester wish to be notified of the decision in any way, in addition to a written notification, for example by telephone, this must be indicated; and



- 12.9.8 An indication as to how the requester wishes to be notified of the decision regarding the request for access to the record(s) concerned.
- 12.9.9 Requesters who cannot read or write may make oral requests to the Information Officer who must fill in the request form for the requester and furnish the requester with a copy;
- 12.10 The EAAB will endeavour to give access in the form requested unless this would interfere with the smooth operations of EAAB. EAAB will also give consideration to the preservation of records and the infringement of copyright when processing is required. Access fees will be calculated according to the manner in which the requester originally asked for the record (Section 29(3) and (4)).
- 12.11 The requester must pay the prescribed fee before any processing may take place.
- 12.12 **Decision on request**

The applicant will be informed whether or not the application for access has been denied or granted. In the event that the application is refused, the applicant will be given adequate reasons for the refusal and will be informed that the applicant may lodge an application with a Court against the refusal of the application, as well as the procedure (including the period) for lodging such application.

13 **GROUNDS FOR REFUSAL**

- 13.1 The EAAB may legitimately refuse to grant access to a requested record that falls within a certain category. Grounds on which the EAAB may refuse include:



- 13.1.1 Protecting personal information that the EAAB holds about a third person (who is a natural person), including a deceased person, from unreasonable disclosure;
- 13.1.2 Protecting commercial information that EAAB holds about a third party or EAAB (for example trade secrets, financial, commercial, scientific or technical information that may harm the commercial or financial interests of EAAB or the third party);
- 13.1.3 If disclosure of the record would result in a breach of a duty of confidence owed to a third party in terms of an agreement;
- 13.1.4 If disclosure of the record would endanger the life or physical safety of an individual;
- 13.1.5 If disclosure of the record would prejudice or impair the security of property or means of transport;
- 13.1.6 If disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme;
- 13.1.7 If disclosure of the record would prejudice or impair the protection of the safety of the public;
- 13.1.8 The record is privileged from production in legal proceedings, unless the legal privilege has been waived;
- 13.1.9 Disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of the EAAB;
- 13.1.10 Disclosure of the record would put the EAAB at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- 13.1.11 The record is a computer programme; and/or



13.1.12 The record contains information about research being carried out or about to be carried out on behalf of a third party of the EAAB.

13.1.13 Records that cannot be found or do not exist if the EAAB has searched for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try and locate the record.

14 **THIRD PARTY INFORMATION**

14.1 If access is requested to a record that contains information about a third party, the EAAB is obliged to attempt to contact the 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 was denied.

14.2 should be denied. In the event of the third-party furnishing reasons for the support or denial of access, our designated EAAB Information Officer will consider these reasons in determining whether access should be granted, or not.

***ADDITIONAL 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 for 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.)
3. If record consists of recorded words or information which can be reproduced in sound: listen to the soundtrack **audio** 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* (flash disk)
 - If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you?
5. **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.