



**MANUAL IN TERMS OF SECTION 51 OF
THE PROMOTION OF ACCESS TO INFORMATION ACT,
2 OF 2000**

This Manual provides information on the records held and the process that is to be followed to request access to such records.

Version: June 2021

1. INTRODUCTION

The Killarney Gardens Property Owners Association (“the Association”) is a Body Corporate established in terms of section 29 of the Land Use Planning Ordinance, 15 of 1985, which Ordinance has been repealed and has been substituted by the Western Cape Land Use Planning Act, No. 3 of 2014 read with the City of Cape Town Municipal Planning By-law, 2015.

2. CONTACT DETAILS

The trustees of the Association are:

- (i) Melt Loubser;
- (ii) Kasper Wiehahn;
- (iii) Ben Saban; and
- (iv) Don McWilliam.

The Estate Manager for the Association is **International Diamonds (Pty) Ltd** and can be contacted at admin@wihsa.co.za.

The Association’s postal address: Killarney Avenue, Killarney Gardens, Cape Town, 7441
Telephone Number: (021) 554 3484
Email: admin@wihsa.co.za

3. OUR RECORDS

3.1. RECORDS WHICH ARE AUTOMATICALLY ACCESSIBLE

Records which we hold in terms of the following Acts of Parliament are automatically accessible in terms of those laws:

- Basic Conditions of Employment Act (Act 75 of 1997);

- Close Corporations Act (Act 69 of 1984);
- Community Schemes Ombud Services Act (Act 9 of 2011);
- Compensation for Occupational Injuries and Disease Act (Act 130 of 1993);
- Employment Equity Act (Act 55 of 1998);
- Financial Intelligence Centre Act (Act 38 of 2001);
- Income Tax Act (Act 58 of 1962);
- Labour Relations Act (Act 66 of 1995);
- Money Laundering & Terrorist Financing Control Regulations (2002/2005);
- Occupational Health and Safety Act (Act 85 of 1993);
- Rental Housing Act (Act 50 of 1999);
- Sectional Titles Schemes Management Act (Act 8 of 2011);
- Skills Development Act (Act 97 of 1998);
- Skills Development Levies Act (Act 9 of 1999);
- Unemployment Insurance Act (Act 63 of 2001);
- Unemployment Contributions Act (Act 4 of 2002); and
- Value Added Tax Act (Act 89 of 1991).

Anyone who is entitled to access to any of those records under any of those laws may therefore have access to them.

3.2. VOLUNTARY DISCLOSURE OF RECORDS

The following records and information are freely available on request:

- information about a Unit Erf which is currently for sale;
- [Theo to indicate what other information is freely available].

3.3. OTHER RECORDS

We also hold the following records, which are not automatically accessible. If you want access to any of them, you will need to follow the procedure in section 4 of this manual:

- Correspondence
 - general correspondence

- Financial
 - business account records;
 - trust account records;
 - trust account annual audit reports;
 - tax records; and
 - receipts issued.
- Financial Intelligence
 - client verification records; and
 - reports (if any) submitted to the Financial Intelligence Centre.
- Meetings
 - minutes of meetings
- Legal
 - records of legal matters
- Letting records
 - advertisements;
 - records of properties rented out on behalf of clients; and
 - letting performance figures.
- Personnel
 - personnel files for current employees and agents; and
 - personnel files for ex-employees who left during the past three years.
- Property
 - documents relating to the Association’s premises
- Property management records
 - records of properties management

4. ACCESS TO OUR RECORDS

4.1. YOUR RIGHT OF ACCESS

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

- you need access to exercise or protect any of your rights, and
- you apply for access according to the procedure set out in this manual, and

- we do not have grounds for refusing you access.

4.2. OUR RIGHT TO REFUSE ACCESS

We have the right to refuse you access to our records if any of the following grounds apply:

- the record would unreasonably disclose personal information about a third party, including a deceased individual (unless that third party or a representative of the deceased gives written permission for access),
- the record contains (a) trade secrets, or (b) financial, commercial, scientific or technical information, or (c) information about research by a third party, which could put that third party at a disadvantage in a negotiation or prejudice him in competition (unless that third party gives written permission for access),
- access would put us in breach of a duty of confidence which we owe to a third party (unless that third party gives written permission for access),
- access could reasonably be expected to (a) endanger someone's life or physical safety, or (b) prejudice or impair the security of a building, structure, system, means of transport or other property,
- the record is privileged from being produced as evidence in legal proceedings (unless the person protected by the privilege has waived that protection).

4.3 NOTICE IN TERMS OF SECTION 52 OF THE ACT

We have not gazetted any notices in terms of Section 52 of the Act. This means that, except for those items listed in sections 3.1 and 3.2 of this manual, we will grant access to our records only in terms of this manual.

4.4 SOUTH AFRICAN 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.

5. HOW TO APPLY FOR ACCESS

5.1. FILL IN A REQUEST FORM

If you want to obtain access to any of the records listed in this manual, you should fill in the application form contained in section 7 of this manual.

5.2 SUBMIT THE FORM AND THE REQUEST FEE

Hand in your completed application form, and a non-refundable request fee of R50.00 + VAT at our Estate Manager's office.

If you cannot visit our office in person, you can post the form and fee to our Estate Manager.

5.3 WE WILL RESPOND

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 may be one of the following:

- Your application does not contain enough information to enable us to search for the record you want. Please provide additional details.
- 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 of R60.00 (plus VAT).
- We have found the record you're looking for, and you may have access to it, on payment of:
 - An access fee of R30.00 (+ VAT) per hour for the time that it took us to find the record (less any deposit which you have already paid), and
 - A reproduction fee for making photocopies or printouts or copying the record onto a stiffy disc or CD - the fees are set out in section 6 of this manual
 - Note: we will not charge fees to an employee or ex-employee requesting access to his/her personnel record.
- 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).

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

6. SCHEDULE OF FEES

As per Government Gazette 23119 dated 15 February 2002:

A photocopy of this manual:	R1.10 per page
Request fee (non-refundable) payable on submission of the Application Form:	R50.00
Access fee for searching our records:	R30.00 per hour

Note: if the search is likely to take longer than six hours (which would cost more than R180), then a deposit of one-third (i.e., R60) is payable in advance.

Reproduction fee photocopy (A4 page or part thereof):	R1.10
Printout from a computer or in other electronic or machine-readable form:	R0.75
Computer-readable copy on disc	R7.50
Computer-readable copy of CD	R70.00
Transcription of visual images (A4 page or part thereof)	R40.00
Copy of a visual image	R60.00
Transcription of an audio record (A4 page or part thereof)	R20.00
Copy of an audio record	R30.00

VAT must be added to request, access and reproduction fees.

Postage

If the copy of the record is to be sent by post, then postage must be paid in addition to the request, access and reproduction fees.

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 private body

The Principal: _____

Address: _____

B. Particulars of person requesting access to the record

Notes:

- Please give the particulars of the person who is requesting access to the record.
- Please state the address and/or fax number in the Republic to which the information is to be sent.
- If applicable, attach proof of the capacity in which the request is made.

Full names and surname: _____

Identity number: _____

Postal address: _____

Telephone no: _____ Fax no: _____

E-mail address: _____

If this application is being made on behalf of another person, state the capacity in which you are making it: _____

C. Particulars of person on whose behalf the request is made

Note: this needs to be completed only if the request for information is being made on behalf of another person.

Full names and surname: _____

Identity number: _____

D. Particulars of record

Notes:

- Provide full particulars of the record to which access is requested, including a reference number (if you know of one) which will help us to locate the record.

- If there is not enough space on this form for all the particulars, write the remaining particulars on a separate sheet of paper, sign it, and attach it to this form.

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

2. Reference number, if available: _____

3. Any further particulars of record: _____

E. Fees

Notes:

- 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.
- You will be notified of the amount to be paid as the request fee.
- The fee payable for access to a record depends on the form in which access is required and the reasonable time to search for and prepare a record.
- If you qualify for exemption from 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 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:

- Compliance with your request in the specified form may depend on the form in which the record is available.
- 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.
- 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:

If the record is in written or printed form:

Copy of the record ___ Inspection of the record ___

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 ___

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) ___

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

Printed copy of record ___ Printed copy of information derived from the record ___

Copy in machine-readable form ___

G. Particulars of right to be exercised or protected

If the space provided is not adequate, please continue on a separate sheet, sign it, and attach it to this form.

1. Indicate which right is to be exercised or protected:

2. Explain why you need the requested record to exercise or protect the aforementioned right: _____

H. Notice of decision regarding request for access

You will be notified in writing whether your application has been approved or denied. If you wish to be informed in some other manner, please specify it and give details to enable us to comply with your request:

How would you prefer to be informed of our 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: _____