



**MOWANA PROPERTIES (PTY) LTD**  
**(REGISTRATION NUMBER 2015/124999/07)**  
**(Hereinafter referred to as “Mowana”)**

## **INFORMATION MANUAL**

**Compiled in terms of section 51 of the Promotion of Access to  
Information Act, No 2 of 2000**

**December 2016**

A copy of the manual will be available for inspection at the Human Rights Commission and at the registered address of Mowana.

## 1. INTRODUCTION

In terms of Section 32 of the Bill of Rights in the Constitution of South Africa, Act 108 of 1996 every person has a right to access information. In order to fulfill this constitutional obligation, the Promotion of Access to Information Act 2 of 2000 (“the Act”) was assented to by Parliament.

The purposes of the Act is to give effect to the constitutional right to access to any information held by the state, public and private companies as well as information held by another person that is required for the exercise or protection of any right.

The motivation for giving effect to the right of access to information is to:

- Forster a culture of transparency and accountability in both public and private bodies.
- Promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all their rights.

Section 9 of the Act however recognizes that such right to access to information cannot be unlimited and should be subjected to justifiable limitations, including, but not limited to:

- Limitation aimed at the reasonable protection of privacy;
- Commercial confidentiality; and
- Effective, efficient and good governance;

and in a manner which balance that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

## 2. PURPOSE

The purpose of this manual is to facilitate requests for access to information of Mowana Properties (Pty) Ltd (“Mowana”).

This manual is not exhaustive of, nor does it comprehensively deal with, every procedure provided for in the Act. Requesters of information are advised for familiarize themselves with the provisions of the Act before making any requests to Mowana in terms of the Act.

Mowana makes no representation and gives no undertaking or warranty that the information in this manual or any information provided by it to a requester is complete or accurate, or that such information is fit for any purpose. All users of any such information shall use such information entirely at their own risk, and Mowana shall not be liable for any loss, expense, liability or claims, however arising, resulting from the use of this manual or of any information provided by Mowana or from any error therein.

All users irrevocably agree to submit exclusively to the law of the Republic of South Africa and to the exclusive jurisdiction of the Courts of South Africa in respect of any dispute arising out of this manual or any information provided by Mowana.

### **3. THE BACKGROUND INFORMATION AND MAIN BUSINESS ACTIVITIES OF MOWANA**

Mowana is a property management company providing property management services to third parties in the commercial, retail, industrial and residential property markets.

### **4. CONTACT INFORMATION**

#### **INFORMATION OFFICER:**

- **Name:** Mr Kevin Roman
- **Postal Address:** P O Box 1650, Sunninghill, 2157
- **Telephone number:** (011) 073 6800
- **E-mail:** [kevin.roman@mowanaproperties.co.za](mailto:kevin.roman@mowanaproperties.co.za)

#### **DEPUTY INFORMATION OFFICER:**

- **Name:** Ms Dianna Beneke
- **Postal Address:** P O Box 1650, Sunninghill, 2157
- **Telephone number:** (011) 073 6800
- **E-mail:** [dianna.beneke@mowanaproperties.co.za](mailto:dianna.beneke@mowanaproperties.co.za)

### **5. GENERAL INFORMATION:**

- **Name of Private Body:** Mowana Properties (Pty) Ltd
- **Postal Address:** P O Box 1650, Sunninghill, 2157
- **Physical Address:** 150 Rivonia Road, Sandton, 2196
- **Telephone number:** (011) 073 6800

### **6. GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

A Guide has been compiled in terms of Section 10 of the Act by the Human Rights Commission. It contains information required by a person wishing to exercise any right contemplated by the Act, and is available in all of the official languages.

Any enquiries regarding this guide should be directed to the SOUTH AFRICAN HUMAN RIGHTS COMMISSION, at PAIA UNIT, THE RESEARCH AND DOCUMENTATION DEPARTMENT, Private Bag X2700, HOUGHTON, 2041, Telephone Number: (011) 484-8300, Facsimile Number: (011) 484-1360, Website: [www.sahrc.org.za](http://www.sahrc.org.za), E-mail Address: [paia@sahrc.org.za](mailto:paia@sahrc.org.za).

### **7. RECORDS THAT ARE AVAILABLE IN TERMS OF ANY OTHER LEGISLATION IN TERMS OF SECTION 51 (1) (d).**

Records are kept in accordance with such other legislation as is applicable to Mowana which includes, but is not limited to, the following legislation:

- Administration of Estates Act No. 66 of 1965
- Arbitration Act No. 42 of 1965
- Basic Conditions of Employment Act No. 75 of 1997
- Broad-based Black Economic Empowerment Act No. 53 of 2003
- Close Corporation Act No. 69 of 1984
- Companies Act No. 71 of 2008;
- Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
- Consumer Protection Act No. 68 of 2008
- Copyright Act No. 71 of 2008
- Debtor Collectors Act No. 114 of 1998
- Deeds Registries Act No. 47 of 1973
- Disaster Management Act No. 57 of 2002
- Domicile Act No. 3 of 1992
- Electronic Communications and Transactions Act No. 25 of 2002
- Employment Equity Act No. 55 of 1998
- Estate Agency Affairs Act No. 112 of 1976
- Financial Advisory and Intermediary Services Act No. 37 of 2002
- Financial Intelligence Centre Act No. 38 of 2001
- Financial Relations Act No. 65 of 1976
- Financial Services Board Act No. 97 of 1990
- Income Tax Act No. 58 of 1962
- Insolvency Act No. 24 of 1936
- Insurance Act No. 27 of 1943
- Intellectual Property Laws Amendments Act No. 38 of 1997
- Judicial Matters Amendment Act No. 42 of 2001
- Labour Relations Act No. 66 of 1995
- Liquor Act No. 59 of 2003
- Long Term Insurance Act No. 52 of 1998
- Matrimonial Property Act No. 88 of 1984
- Medical Schemes Act No. 131 of 1998
- National Credit Act No. 34 of 2005
- National Building Regulations and Buildings Standards Act No. 103 of 1997
- National Environment Management Act No. 31(1) of 1998
- Occupational Health and Safety Act No. 85 of 1993
- Pensions Funds Act No. 24 of 1956
- Post Office Act No. 44 of 1958
- Prevention and Combatting of Corrupt Activities Act No. 12 of 2004
- Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000
- Property Valuers Profession Act No. 2 of 2000
- Protection of Personal Information Act No. 4 of 2013
- Public Holidays Act No. 36 of 1994
- Public Finance Management Act No. 1 of 1999
- Regional Services Councils Act No. 109 of 1985

- SA Reserve Bank Act No. 90 of 1989
- Short Term Insurance Act No. 53 of 1998
- Skills Development Levies Act No. 9 of 1999
- Stock Exchange Control Act No. 1 of 1985
- Tax on Retirement Funds Act No. 38 of 1996
- Tobacco Products Control Act No. 83 of 1993
- Trade Marks Act No. 194 of 1993
- Trust Property Control Act No. 57 of 1988
- Unemployment Insurance Act No. 63 of 2001
- Value-Added Tax Act No. 89 of 1991

## **8. DESCRIPTION OF THE SUBJECTS AND CATEGORIES OF RECORDS HELD BY MOWANA**

The description of the subjects and categories of records held by Mowana are the following:

### **Incorporated documents**

- The Memorandum of Incorporation of Mowana.
- Mowana company secretarial documents.
- Registration with statutory bodies.
- Public corporate records

### **Financial records of the company**

- Accounting records, books and documents of Mowana.
- Annual Financial Reports of Mowana.
- Tax returns of Mowana.
- Facility Agreements.
- Annual Open Market Valuation information.
- Auditor's report in respect of audits conducted on Mowana.
- Financial records (including transaction, technical and administration records).
- Commercial Agreements.
- Management Accounts.
- Statutory records and returns.

### **Human resources/ employment records**

- List of employees and employee records.
- Letters of appointment with employees.
- Records relating to employee benefits.
- Employment Equity Plan and records.
- Disciplinary records and documentation pertaining to disciplinary proceedings.
- UIF records
- Workmen's Compensation records.
- Policies and procedures manuals.
- Training records and manuals.
- Statutory records.

### **Information Technology records**

- Agreements and licenses.
- Software programs, applications and records.
- Policies and procedures.

### **Intellectual Property**

- Property databank and benchmark information.
- Trade mark/s

### **Marketing related records**

- Market Information
- Marketing Strategies

### **Safety and Insurance records**

- Assets records.
- Employee related insurance.
- Property related insurance.
- Policies and procedures.
- Statutory records

### **Immovable and movable property**

- Title deeds relating to an interest in property investments.
- Mowana asset register.
- Agreement/s of Lease.
- Agreement/s for hire / sale of assets

### **Correspondence**

- Correspondence with third parties and internal correspondence.

## **9. THE MANNER IN WHICH THE ABOVE RECORDS WILL BE MADE AVAILABLE**

The abovementioned records may only be accessed by the members of the public by prior appointment with the Information Officers and at Mowana's Head Office during office hours, subject to grounds of refusal mentioned in the Act.

## **10. RECORDS THAT ARE AUTOMATICALLY AVAILABLE TO THE MEMBERS OF THE PUBLIC AND HOW TO GAIN ACCESS TO THEM**

The following records are available in terms of other legislation and access to these records may be gained by means of a prior appointment with the information officer:

- Any information publicly available on the corporate website at :  
<http://www.mowanaproperties.co.za>
- The Corporate Profile

## **11. REQUEST FOR PROCEDURE**

The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

The requester must complete the prescribed form, as well as payment of a request fee and a deposit, if applicable.

Mowana will process the request within 30 days.

The requester shall be informed whether access to Mowana's records is granted or denied.

The requester requires the information in order to exercise or protect a right.

## **12. ACCESS REQUEST PROCEDURE FOR DOCUMENTS HELD BY MOWANA**

### **Section 51(1) (e)**

The purpose of this section is to provide requesters with sufficient guidelines and procedures to facilitate a request for access to records held by Mowana.

It is important to 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 requester access to the requested record.

### **Note**

If it is reasonably suspected that the requester has obtained access to Mowana's records through the submission of materially false or misleading information, legal proceedings may be instituted against such requester and Mowana naturally reserves all its rights.

### **Completion of Access Request Form**

In order for Mowana to respond to requests in a timely manner, the Access Request Form (which is available on the SAHRC website) should be completed, taking due cognisance of the following *Instructions on Completion of Forms*:

- The Access Request Form must be completed in the English language.
- Type or print in BLOCK LETTERS an answer to every question.
- If a question does not apply, state "N/A" in response to that question.
- If there is nothing to disclose in reply to a particular question, state "nil" in response to that question.
- If there is insufficient space on a printed form in which to answer a question, additional information may be provided on an additional folio.

- When the use of an additional folio is required, precede each answer thereon with the title applicable to that question.

### **Submission of Access Request Form**

The completed Access Request Form must be submitted either via conventional mail or e-mail and must be addressed to the contact person as indicated in Section 51(1)(a).

### **Payment of Fees**

Payment details can be obtained from the contact person as indicated in Section 51(1)(a) and payment can be made either via a direct deposit, by bank guaranteed cheque or by postal order (no credit card payments are accepted). Proof of payment must be supplied.

### **Note**

If the request for access is successful, an **access fee** will be required for the search, reproduction and/or preparation of the record(s) and will be calculated based on the Prescribed Fees (refer attached). The access fee must be paid prior to access being given to the requested record.

### **Notification**

Requests will be evaluated and the requester notified within 30 days of receipt of the completed Access Request Form. Notifications may include:

### **Notification of Extension Period (if required)**

The requesters may be notified whether an extension period is required for the processing of their requests, including:

- The required extension period, which will not exceed an additional 30-day period;
- Adequate reasons for the extension; and
- Notice that the requester may lodge an application with a court against the extension and the procedure, including the period, for lodging the application.

### **Third Party Information**

If access is requested to a record that contains information about a third party, Mowana is obliged to attempt to contact this 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 should be denied.

### **Payment of Deposit (if applicable)**

The requester may be notified whether a deposit is required. A deposit will be required depending on certain factors such as the volume and/or format of the information requested and the time required for search and preparation of the record(s). The notice will state:



- The amount of the deposit payable (if applicable); and
- That the requester may lodge an application with a court against the payment of the deposit and the procedure, including the period, for lodging the application.

**Note**

In the event that access is refused to the requested record, the full deposit will be refunded to the requester.

**Decision on Request**

If no extension period or deposit is required, the requesters will be notified, within 30 days, of the decision on their requests.

If the request for access to a record is **successful**, the requester will be notified of the following:

- The amount of the access fee payable upon gaining access to the record (if any). The fee structure is available on the website of the SAHRC;
- An indication of the form in which the access will be granted;
- Notice that the requester may lodge an application with a court against the payment of the access fee and the procedure, including the period, for lodging the application.

- If the request for access to a record is **not successful**, the requester will be notified of the following:

- Adequate reasons for the refusal (refer to Third Party Information and Grounds for Refusal below); and
- That the requester may lodge an application with a court against the refusal of the request and the procedure, including the period, for lodging the application.

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

**Grounds for Refusal**

Mowana may legitimately refuse to grant access to a requested record that falls within a certain category. Grounds on which Mowana may refuse access include:

- Disclosure of the record (containing trade secrets, commercial, scientific, technical or any other confidential information) would harm the commercial or financial interests of Mowana.
- The record is privileged from production in legal proceedings, unless the legal privilege has been waived.
- Protecting personal information that Mowana holds about a third person (who is a natural person), including a deceased person, from unreasonable disclosure.
- Protecting commercial information that Mowana holds about a third party or Mowana (for example trade secrets: financial, commercial, scientific or technical information that may harm the commercial or financial interests of the organisation or the third party).

- Disclosure of the record would result in a breach of duty of confidence owed to a third party in terms of an agreement.
- Disclosure of the record would endanger the life or physical safety of an individual.
- Disclosure of the record would prejudice or impair the security of property or means of transport.
- Disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme.
- Disclosure of the record would prejudice or impair the protection of the safety of the public.
- Disclosure of the record would put Mowana at a disadvantage in contractual or other negotiations or prejudice it in commercial competition.
- The record is a computer program.
- The record contains information about research being carried out or about to be carried out on behalf of a third party or Mowana.

### **13. REMEDIES AVAILABLE WHEN MOWANA REFUSE A REQUEST FOR INFORMATION**

#### **Internal Remedies**

Mowana does not have internal appeal procedures and the Courts will have to be approached if the request for information is refused. This would apply to any situation in which the requester wishes to appeal a decision made by the information officer.

#### **External Remedies**

A requester that is dissatisfied with an information officer's refusal to disclose information, may within 30 days of notification of the decision, apply to a Court for relief. Likewise, a third party dissatisfied with an information officer's decision to grant a request for information, may within 30 days of notification of the decision, apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

#### **Records that cannot be found or do not exist**

If Mowana 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 to locate the record.

### **14. AMENDMENTS TO THIS POLICY**

Amendments to or a review of this manual will take place on an *ad hoc* basis or as dictated by operational requirements.

Requester/s are advised to access Mowana's website periodically to inform themselves of any changes.