

MANUAL FOR THE DEPARTMENT OF HUMAN SETTLEMENTS KWAZULU NATAL PROVINCE

*In terms of
Section 14 of
The Promotion of Access of Information Act, 2000
(Act No.2 of 2000)*

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FUNCTIONS OF DEPARTMENT OF HUMAN SETTLEMENTS – KWAZULU NATAL

1. Overview

Vision

The vision of the department is: Innovative champions of change in the housing sector to improve the quality of life for all in KZN.

Mission statement

The mission statement of the department is: To create an enabling environment for the development of sustainable human settlements in partnership with stakeholders to improve the quality of life for all in KZN.

Strategic Objectives

Strategic policy direction: By focusing on its role of creating sustainable human settlements throughout the province, the department seeks to align its operations and strategic position with the overall aim of government to achieve accountability and effective service delivery for all citizens of the province in the following areas: create sustainable human settlements and improved quality of household life, and create vibrant, equitable, sustainable rural communities contributing towards food security for all.

The strategic objectives set by the department are:

- Eradication of slums in KZN by 2014;
- Addressing instructional and systemic constraints;
- Identification and addressing risks in the housing delivery process;
- Strengthening governance and service delivery;
- Ensuring job creation through housing delivery;
- Accelerating housing delivery in rural arrears;
- Accelerating the Community Residential Unit (CRU) programme;
- Creating rental/social housing opportunities;
- Building capacity of housing stakeholders (especially municipalities)
- Promotion of home-ownership;
- Provision of housing for vulnerable groups including those affected by HIV and AIDS;
- Ensuring the provision of incremental housing and
- Implementation of the Financial Services Market programme.

Core Functions

The following core functions have identified as key for the attainment of the strategic objectives:

- To promote the provision of housing development;
- To promote the provision of affordable housing and essential services ;
- To manage, control and maintain the immovable assets of the department;
- To administer and manage housing subsidies of targeted groups;
- To research, establish, monitor and implement policies within the National Housing Policy Framework;
- To formulate a Provincial Housing Development Plan for the province;
- To facilitate and create housing institutions;
- To provide legal advice on land and environment issues;
- To administer and co-ordinate the CRU programme;
- To administer the clearance of slums in KZN; and
- To capacitate housing stakeholders

Legislative mandates

The principal legislative mandates governing the operations of the department are:-

- Constitution of the Republic of South Africa, 1996
- Housing Act, 1997, as amended
- Housing Consumers Protection Measures Act, 1998, as amended
- Rental Housing Act, 1999
- Sectional Titles Act, 1986
- Abolition of Certain Title Conditions Act, 1999
- Prevention of Illegal Eviction and Unlawful Occupation of Land Act, 1998
- Home Loan and Mortgage Disclosure Act, 2000
- Disestablishment of South African Trust Limited Act, 2000
- Constitution Court judgment, 2000, on the enforceability of social and economic rights
- KwaZulu-Natal Housing Act, 1998, as amended.
- Housing Development Schemes for Retired Persons Act, 1998, as Amended
- National Building Regulations and Building Standards Act, 1977
- Construction Industry Development Board Act, 2000
- Preferential Procurement Policy Framework Act, 2000
- Public Finance Management Act, 1999, as amended, and Treasury Regulations
- Broad Based Black Economic Empowerment Act 2003
- National Environment Management Act, 1998, as amended
- Communal Property Associations Act, 1996
- Deeds Registries Act, 1937
- Extension of Security of Tenure Act, 1997
- Land Administration Act, 1995
- Reconstruction and Development Programme Fund Act, 1994
- Municipal Finance Management Act, 2003
- Corruption Act, 1994, as amended
- National Heritage Resource Act, 1999
- State Land Disposal Act, 1999
- Standards Act, 1993
- The KZN Traditional Leadership and Governance Act, 2005
- Social Housing Act, 2008
- Housing Development Agency Act, 2008
- Elimination and Prevention of the Re-emergence of Slums Act, 2007

2. STRUCTURE OF DEPARTMENT OF HOUSING - KZN

The department is currently restructuring.

3. Contact Details of information officer

The Head of Department is its information Officer in terms of the Promotion of Access to Information Act. The deputy information officer has been designated for as the manager: Legal Services.

Contact Details:-

Information Officer

Private Bag X9157

Pietermaritzburg, 3201

Tel: 033-392 6425

Fax: 033-392 6454

Email: portia.myakayaka@kzndhs.gov.za

Deputy Information Officer

Private Bag X9157

Pietermaritzburg

3201

Tel: 033-392 6414

Fax: 033-392 6465

Email: odette.anderson@kzndhs.gov.za

4. GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION OF HOW TO USE THE ACT

The guide on how to use the Promotion of Access to Information Act, 2000, available from the South African Human Rights Commission.

South African Human Rights Commission:

PAIA Unit

The Research and Documentation Department

Postal address: Private Bag 2700

Houghton

2041

Telephone: 011-484 8300

Fax: 011-484 1360

Email: PAIA@sahrc.org.za

Website: www.sahrc.org.za

5. RECORDS

5.1 Description of Subjects on which DHS-KZN Holds Records and Categories of Records held on each subject

For purpose of facilitating a request in terms of the Act, the subjects on which the DHS KZN holds records and the categories of records held on each subject are as follows:

(A) HUMAN RESOURCES

- Matters Concerning All Components/Employees i.e Personnel Files.
- Senior Management Service
- Skills Development/Capacity Building
- Training Strategy
- Conditions of Service
- Remuneration Policy and Compensation Management
- Job Evaluation
- Negotiations
- Labour Relations
- Records of Disciplinary Proceedings

(B) Service Delivery Information**Project Management**

- Projects approved by the Executive
- Matters recommended at the Housing Evaluation and Assessment Committee.
- Reports on project status and expenditure.
- Contracts concluded by the Department
- Beneficiary and Subsidy information
- Policies applicable in the Department

(C) Support services Information

- For matters related to Finance
- Matters related to Supply Chain Management and Procurement
- Procedures
- Matters related to Anti-Communication risk and Audit Cases
- Matters related to transport DOHS – KZN and logistics
- Matters related to Legal Services

5.2 Records Automatically Available

No notice has been published yet regarding the categories of records of the which are available without a person having to request access in terms of the procedure in the Promotion of Access to Information Act. However, the records on the website of DOHS –KZN www.kznhousing.gov.za are available for viewing or downloading without a person having to make such a request in terms of the said Act.

5.3 Request Procedure

a) **Granting or refusal of request:**

A requester must be given access to a record of public body if the requester complies with the following:

The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and

Access to that record is not refused on any ground of refusal mentioned in the Act.

b) **How do I request access to a record:**

- A requester must use the form (Form A) that was printed in the Government Gazette (Government Notice R167 of 15 February 2002).
The requester must also indicate if the requester want a copy of the record or if the requester wants to come in and look at the record at the offices of the public body. Alternatively if the record is not a paper document it can then be viewed in the requested form, where possible.
If a person asks for access in a particular form (e.g: a paper copy, electronic copy, etc) then the requester should get access in that form. This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state. If for practical reasons access cannot be given in the required form but in another form, then the fee must be calculated according to the way that the requester first asked for it.
- If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, e.g. telephone, this must be indicated.
- If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made must be indicated.
- If a requester is unable to read or write, or has a disability, then the request can be made orally. The information officer must then fill in the form on behalf of such a requester and gave them a copy of the completed form.

(C) Fees Payable for a request and notification of decision on access

- Requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester must pay the request fee of R35.
- The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay prescribed request fee (if any) and deposit (if any) before further processing the request.
- The requester may lodge and internal appeal, where appropriate, or an application to the court against the tender or payment fee. • After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.
- If the request is granted then a further access fee must be paid for the reproduction and for search and preparation for any time required in excess of stipulated hours to search and prepare the record for disclosure.
- Access to a record will be withheld until all the applicable fees have been paid.

6. SERVICE AVAILABLE TO PUBLIC

- The Department relies on the assistance of municipalities in the process of delivery of housing and the creation of Sustainable Human Settlements. However the applicable subsidies and policies are available to the public.

7. ARRANGEMENT ALLOWING INVOLVEMENT IN FORMULATION OF POLICY AND PERFORMANCE OF FUNCIONS

Policy and legislation: When the DOHS – KZN process new policy or legislation it undertakes consultation with all stakeholders through inviting comment on published papers and/or workshops/conferences. The process of participating differs according to the kind of project and is usually made known before the start of the project or thereafter.

Administrative action: In cases where an administrative action materially and adversely affects

- The rights or legitimate expectations of any person; or
- The rights of the public,

The prescripts for a procedurally fair administrative action set out in the provisions of the Promotion of the Administrative Justice Act, 2000 (Act No. 3 of 2000), will be adhered to (sections 4 and 5 in particular).

Conditions of service of public service employees: The conditions of service and other matters of mutual interest of public service employees are negotiated at bargaining councils created in terms of the Labour Relations Act, 1995 (Act No 66 of 1995). Trade unions representing a stipulated number of public service employees may become a party to such a bargaining council. The Public Service Coordinating Bargaining Council is the body at which inter alia all conditions of service applying to all public service employees uniformly are negotiated. The following Sectoral Bargaining Councils exist:

- General Public Service Sectoral Bargaining Council
- Education Labour Relations Council
- Public Health and Welfare Sectoral Bargaining Council
- Safety and Security Sectoral Bargaining Council

8. REMEDIES AVAILABLE IN RESPECT OF ACTS OR FAILURES TO ACT

The following procedures exist for persons to report or remedy alleged irregular, improper or unlawful officials acts or omissions by DOHS – KZN

- (a) Procedures for reporting or remedying :
 - (i) Remedies in respect of acts or failures to act in terms of the Promotion of Access Information Act: The internal appeal authority for purpose of this Act is the member of executive committee responsible for Human Settlements. After exhausting the internal appeal remedy an application may be lodge with a court (section 78 – 82).
 - (ii) A public service employee may lodge a grievance or complaint for investigation by the Public Service Commission concerning an official act or omission (section 35 of the Public Service Act, 1994).
 - (iii) A person may use labour remedies regarding official acts or omissions of a labour nature, namely disputes of rights (the Public Service Act, 1994, and Labour Relations Act, 1995);
 - (iv) A person may lodge a complaint with a labour inspector concerning any alleged contravention of the Basic Conditions of Employment Equity Act, 1998 (Act No. 55 of 1998 – section 34(e).
 - (v) A person may lodge a complaint with the Public Protector concerning a suspected unlawful or improper official act or omission (the Constitution and the Public Protector Act, 1994 (Act No. 23 of 1994)).
 - (vi) A person may lodge a complaint with the South African Human Rights Commission concerning an official act or omission that is suspected to constitute a violation of or threat to any fundamental right (Human Rights Commission Act, 1994 (Act No.54 of 1994)).
 - (vii) In order to be protected from reprisals because of a disclosure regarding unlawful or irregular conduct by an employer or a fellow employee, the person in question may follow the disclosure procedures in the Protected Disclosures Act, 2000 (Act No. 26 of 2000).

- (viii) The use of other legal remedies such as the institution of proceedings for the judicial review of an administrative action in terms of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)
- (b) ***Other supportive remedies:***
 - (i) A person may request reasons for a administrative action in terms of the promotion of Administrative Justice Act, 2000(Section 5).
 - (ii) A person may request access to records of a government department or other public body in terms of the Promotion of Access to Information Act, 2000 (Section 5).
- (c) ***Duty to report:***
 - (i) A public service employee, in the course of his or her official duties, is obliged in terms of the Code of Conduct for public service employees to report to the appropriate authorities, fraud, corruption, nepotism, mal-administration and any other act which constitutes an offence or which is prejudicial to the public interest. An employee who fails to comply with this, is guilty of misconduct. (Regulation B.3 and C.4.10 of Chapter 2 of the Public Service Regulations, 2001).
 - (ii) The responsibility of every employer and employee to disclose criminal and any other irregular conduct in the workplace also underpins the Protected Disclosures Act, 2000 (Preamble).

9. UPDATING AND AVAILABILITY OF MANUAL

9.1 The manual shall be updated within twelve months after publication of this first manual.

The Department of Housing of KwaZulu Natal shall also consider increasing the number of languages in which the manual is published until the legislative aim of publishing in all official languages is achieved.

9.2 Availability of the manual

The manual shall be available in places prescribed by the Legal Deposit Act, and at the offices of the South African Human Rights Commission as well as on our website (www.kznhousing.gov.za)

10. FEES FOR RECORDS OF PUBLIC AS STIPULATED BY THE CURRENT REGULATIONS TO THE ACT.

The fee for reproduction, referred to in section 15(3) of the Act, is as follows:

- (a) For every photocopy of an A4-size page or part thereof. 0-60
- (b) For every print copy of an A4-size page or part there of 0-40
- (c) Held on a computer or in electronic or machine readable form for a copy in a computer-readable form on-

| | | |
|---|---|-------|
| (i) | Stiffy disc | 5-00 |
| (ii) | Compact disc | 40- |
| (d) | (i) for transcription of visual images, for an A4-size or part thereof | 22-00 |
| | (ii) For a copy of visual images | 60-00 |
| (e) | (i) For a transcription of an audio record, for an A4-size page or part thereof | 12-00 |
| | (ii) For a copy of an audio record | 17-00 |
| The request fee payable by every requester, other than a personal request referred to in section 22(1) of the Act, is | | 35-00 |

The access fees payable by a requester referred to in section 22(7) of the Act, unless exempted under section 22(8) of the Act, are as follows:-

| | | |
|------|--|-------|
| (a) | For every photocopy of an A4-size page or part thereof | 0-60 |
| (b) | For every printed copy of an A4-size page or part thereof held in a computer or in electronic or machine-readable format | 0-40 |
| (i) | Stiffy | 5-00 |
| (ii) | Compact disc | 40-00 |
| (c) | (i) For a transcription of visual images, for an A4-size page or part thereof | 22-00 |
| | (ii) For a copy of visual images | 60-00 |
| (d) | (i) For a transcription of an audio record, for an A4-size page or part thereof | 12-00 |
| | (ii) For a copy of an audio record | 17-00 |

To search for the record for disclosure R15.00 for each hour or part of an hour, excluding the first hour, reasonable required for such search.

The actual postal fee is payable when a copy of a record must be posted to a requester.

For the purpose of section 22(2) of the Act, the following applies:

- (a) Six hours as the hours to be exceeded before a deposit is payable: and
- (b) One third of the access fee is payable as a deposit by the requester.

11. FORM OF REQUEST

A request for access to a record as contemplated in section 53(1) of the Act, must be made in the form of Form A of the Annexure.



J750

REPUBLIC OF SOUTH AFRICA

FORM A
REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY
(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 6]

FOR DEPARTMENTAL USE

Reference number:

Request received by (state rank,
name and surname of information officer/deputy information officer) on (date)
at (place).

Request fee (if any): R

Deposit (if any): R

Access fee: R

.....
SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER**A. Particulars of public body**

The Information Officer/Deputy Information Officer:

FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

B. Particulars of person requesting access to the record

- (a) The particulars of the person who requests access to the record must be given below.
 (b) The address and/or fax number in the Republic to which the information is to be sent, must be given.
 (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

Identity number:

| | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

Postal address:

Telephone number: (.....) Fax number: (.....)

E-mail address:

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

Identity number:

| | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
 (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

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

.....

FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

2. Reference number, if available:

3. Any further particulars of record:

.....

.....

.....

.....

.....

E. Fees

- (a) 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.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the 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 are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability: _____ Form in which record is required: _____

Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request for access 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 to 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:

| | | | | | |
|--------------------------|-----------------|--------------------------|----------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | copy of record* | <input type="checkbox"/> | inspection of record | <input type="checkbox"/> | <input type="checkbox"/> |
|--------------------------|-----------------|--------------------------|----------------------|--------------------------|--------------------------|

2. If record consists of visual images -

(this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):

| | | | | | | |
|--------------------------|-----------------|--------------------------|---------------------|--------------------------|------------------------------|--------------------------|
| <input type="checkbox"/> | view the images | <input type="checkbox"/> | copy of the images* | <input type="checkbox"/> | transcription of the images* | <input type="checkbox"/> |
|--------------------------|-----------------|--------------------------|---------------------|--------------------------|------------------------------|--------------------------|

FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

| | | | | | |
|--|--|--|---|-----|--|
| 3. If record consists of recorded words or information which can be reproduced in sound: | | | | | |
| | listen to the soundtrack (audio cassette) | | 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* (stiffy or compact disc) |
| *If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable. | | | | YES | NO |
| Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available. | | | | | |
| In which language would you prefer the record? | | | | | |

G. 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.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

Signed at this day of year

.....
SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE

SECTION 32 REPORT

| | |
|--|--------------|
| Name of Public Body: <u>KZN HUMAN SETTLEMENTS</u> Report in terms of section 32 of PAIA | |
| Reporting period: 01 April 2011 to 31 March 2012 | Total |
| (a) Number of PAIA requests received | 5 |
| (b) Number of requests granted in full | 3 |
| (c) Number of requests granted despite their being a ground of refusal, but granted in the public interest | 0 |
| (d) Number of requests refused in full or refused partially | 2 |
| (e) Number of times a provision of PAIA was relied on to refuse a request in full / partially | 2 |
| (f) Number of instances where the 30 day period to deal with a request was extended | once |
| (g) Number of internal appeals lodged with the relevant authority | NONE |
| (h) Number of cases where requests were granted as a result of an internal appeal | NONE |
| (i) Number of internal appeals lodged on account of a deemed refusal | NONE |
| (j) Number of applications to court as a result of the relevant authority failing to give notice of its decision | NONE |
| Other information – please include your recommendations/ observations in this category. The information requested has been in relation to the number of housing projects and has been requested by persons requiring it for research/post graduate study. The request not granted was in respect of a financial institution that wanted private confidential information for their business purposes. | |
| MS.ODETTE GILLIAN ANDERSON Name of Deputy Information Officer MS.C.G.GUMBI-MASILELA Name of the Information Officer/[Head of Department] Signature Date: 14 April 2011 | |