



THE ESTATE AGENCY AFFAIRS
BOARD



ACCESS TO INFORMATION MANUAL

Manual prepared in terms of Section 14 of the
Promotion of Access to Information Act 2/2000

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1. INTRODUCTION

The Promotion of Access to Information Act (herein referred to as “the Act”) addresses Section 32 of the Constitution, which provides that any person has a right to gain access to any information held by a public or private body that is required for the exercise or protection of any rights.

Section 14 of the Act requires public bodies to compile a manual on the functions of, and index of records held by, the public body. The purpose of the manual is to provide a reference as to the records held and the process that needs to be followed to request access to such records.

This document serves as the Estate Agency Affairs Board’s (“EAAB”) manual in terms of the Act.

2. STRUCTURE AND FUNCTIONS OF THE EAAB

[Section 14(1)(a)]

2.1 Functions of the EAAB

The EAAB is established in terms of section 2 of the Estate Agency Affairs Act, 112 of 1976, and is the statutory regulator of the estate agency industry in the Republic of South Africa. The Board regulates the estate agency industry by licensing estate agency practitioners. The law under which the Board operates:

1. requires that practitioners meet certain standards to be licensed; and
2. prohibits unethical conduct in the practice of estate agency.

The Board achieves regulation through:

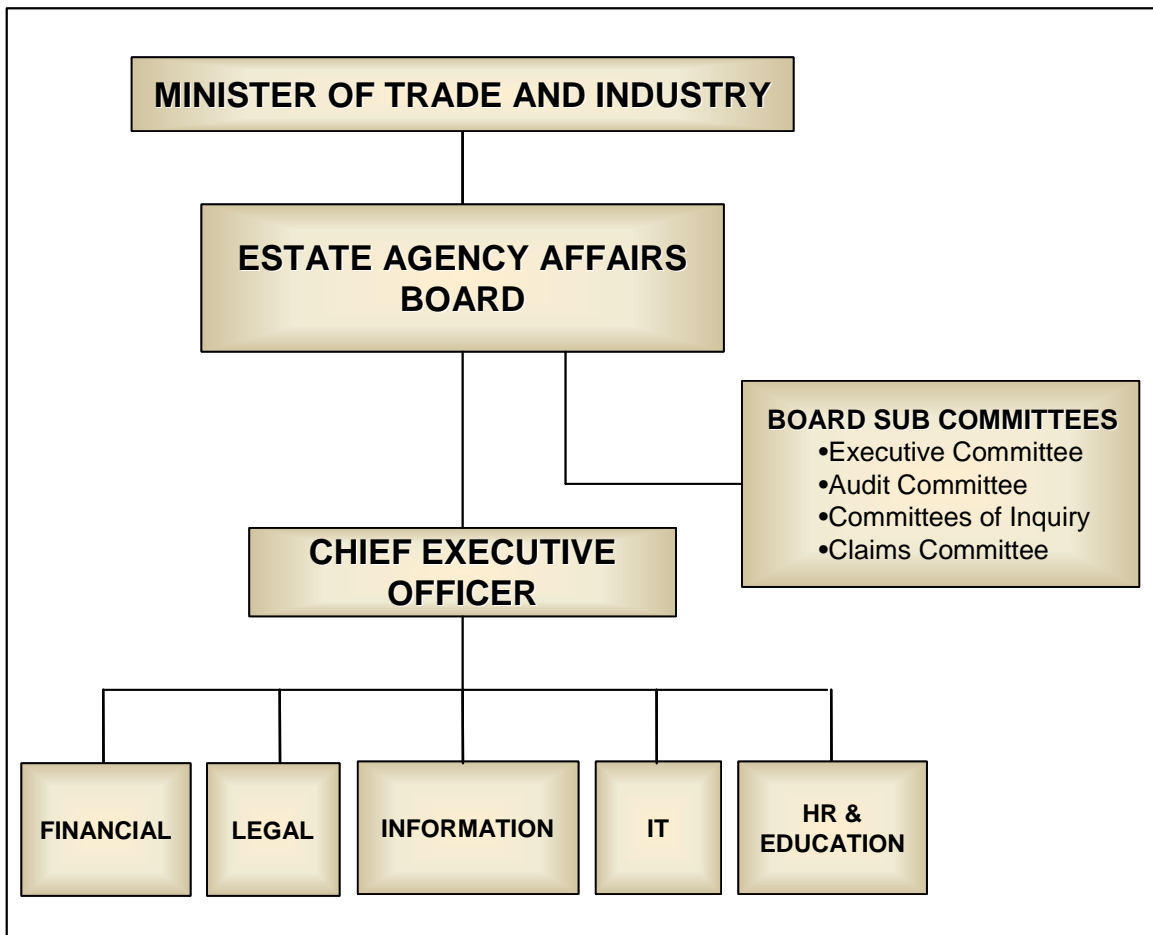
- Preventing unsuitable persons from entering the industry through a managed registration procedure and an enforceable Code of Conduct
- Administering a qualifying examination for new applicants
- Investigating complaints concerning alleged conduct deserving of sanction by estate agents.
- Imposing disciplinary sanction on estate agents found to have contravened Act 112 of 1976 or the Code of Conduct,
- Reimbursing consumers who have suffered financial loss through the theft by estate agents of trust monies, from the Estate Agents Fidelity Fund

The objects of the EAAB are to:

- Maintain and promote the standard of conduct of estate agents; and
- Regulate the activities of estate agents, in the public interest.

An important role of the EAAB thus, is to protect the public interest. Protecting the public interest means assuring every individual's right to justice and equal treatment whether that individual is a consumer or estate agent practitioner. The Board must, therefore, use its best efforts to achieve fair and impartial enforcement of the law.

2.2 Schematic diagram of the functional organisation of the EAAB



2.3 The Structure of the EAAB

2.3.1 THE BOARD

Board Members are appointed by the Minister of Trade and Industry and are representative of the following categories

- a) the estate agents' industry;
- b) civil society, representing consumer interest; and
- c) related professions and institutions such as the legal profession, financial institutions, property owners and developers

ESTATE AGENCY AFFAIRS BOARD		
ESTATE AGENCY INDUSTRY CATEGORY	CIVIL SOCIETY CATEGORY	RELATED PROFESSIONS AND INSTITUTIONS CATEGORY
<p>Mr Geoffrey Fatasi <i>Mashigo Executive Director of Mashigo Properties</i></p> <p>Miss Jill Corfield <i>Executive Director of Corfield School of Real Estate</i></p> <p>Ms Valencia Mazibuko <i>Estate Agent for Continental Homes</i></p> <p>Ms Anne Fry <i>Branch Manager of Pam Golding Properties</i></p> <p>Ms Mandisa Sinuka <i>Executive Director of Mandisa Estate Agency</i></p>	<p>Ms Lilibeth Moolman <i>Chairperson of the National Consumer Union</i></p> <p>Ms Zena Poggenpoel <i>Legal Manager at the Housing Consumer Protection Trust</i></p>	<p>Mr Mohamed Ismael <i>Partner in an Accounting Firm</i></p> <p>Mr Linda Joseph Nyembe <i>Executive Chairman of Nu Way Housing Developments (Pty) Ltd</i></p> <p>Mr Ian Grant Cruickshank <i>Partner in Cruickshank and Associates</i></p> <p>Mr Phethola Nailana <i>Makgathe CEO of the National Homebuilders Registration Council</i></p> <p>Ms Magauta Mphahlele <i>Director in the Department of Trade and Industry</i></p>

2.3.2 BOARD SUB-COMMITTEES

The EAAB has appointed the following sub-committees

- Executive Committee (decisions to be ratified by EAAB)
- Audit Committee (reports to EAAB)
- Committees of inquiry (meet nationally as and when required)
- Claims Committee (makes recommendations to EAAB but holds its sessions at EAAB offices)
-

2.3.3 DEPARTMENTS AND OPERATIONAL FUNCTIONS

The EAAB appoints its own personnel and performs its functions through various departments, headed by the Chief Executive Officer, Mr D S S Moshidi. The EAAB also employs external legal consultants and public relations consultants.

Financial Department

- Finance and Accounting
- Budget and Financial Management
- Management of Fidelity Fund

Legal Department

- Complaints, compliance, discipline
- Claims against Fidelity Fund
- Investigations and inspections
- Appeals

Information Department

- Information Services
- Operationalisation of Public Awareness
- Consumer Protection

HR and Education Department

- Human Resource Management
- Education Standards
- Liaison with SAQA and stakeholders

IT Department

- System Administration
- Programming, maintenance and development
- Network administration
- Web and E-mail management
- Data capture and input
- Licencing and Registrations

3. CONTACT DETAILS

[Section 14 (1)(b)]

3.1 Information Officer:

Mr Clive Ashpol – clive@eaab.org.za

3.2. Website

www.eaab.org.za

3.3. Telephone/Fax

Telephone +27 11 880 9994

Fax: +27 11 880 9955

3.4. Postal Address

The Information Officer
Estate Agency Affairs Board
Private Bag X10
Benmore
2010

Docex 41
Sandton Square

3.5. Physical Address

Estate Agency Affairs Board
Dunkeld Crescent
North East Block Building
Cnr Albury Rd & Jan Smuts Ave
Hyde Park
Johannesburg

3.6. Office Hours

Monday – Friday 8:15 – 13:30
14:00 – 16:15

4. SAHRC GUIDE ON HOW TO USE THE ACT

[Section 14 (1)(c)]

The Human Rights Commission is responsible for compiling a guide that will contain such information as may reasonably be required by a person who wishes to exercise any right contemplated in the Act. The guide will be available from the SAHRC by not later than August 2003. Please direct any queries to:

The South African Human Rights Commission:

PAIA Unit

The Research and Documentation Department

Postal address: Private Bag 2700
Houghton
2041

Telephone: +27 11 484-8300

Fax: +27 11 484-1360

Website: www.sahrc.org.za

E-mail: PAIA@sahrc.org.za

5. AUTOMATIC DISCLOSURES

[Section 14(1)(e)]

A notice in terms of section 15(2) describes the categories of records of the body that are available without a person having to request access in terms of the Act. Information for the EAAB notice in terms of section 15(2) is not currently available.

The following records published by the EAAB are available to be downloaded from the website or can be obtained from the EAAB offices (see 3.5 above for address)

Education

Unit Standards for Real Estate

How to enroll for Board examination

Exam application form

Application for accreditation as an education provider

Qualifications framework for estate agents

List of approved Education Providers

Information Bulleting regarding the EAAB examination

Consumer Awareness

How to lodge a complaint against an Estate Agent

Recommended complaint form

How to lodge a claim against the Fidelity Fund

Information guide - The purchase and sale of immovable property through an Estate Agent

Arbitration of Commission disputes

Guidelines for Estate Agents – Purchaser’s cooling off rights

Regulations – conduct deserving of sanctions

Frequently Asked Questions

Trust accounts and auditing

Guidelines concerning the submission of auditor’s report

Auditor’s Report Form

General

Financial Statements – Board and Fidelity Fund

Standard preprinted sales documentation for buying or selling immovable property (minimal charge for this document)

6. RECORDS THAT MAY BE REQUESTED

[Section 14(1)(d)]

6.1 Legal Services

6.1.1 Complaints, Compliance, Discipline

- Records of complaints received
- Disciplinary Committee meetings

6.1.2 Claims

- Claims lodged against Fidelity Fund

6.1.3 Arbitration

- Records of various arbitration matters

6.1.4 Appeals

- Records of appeals

6.1.5 Investigations and Inspections

- Records of investigations and inspections

6.2 Information Services

- Newsletter - Agent
- EAAB Publications

6.3 Education and Training

- Accredited Education Providers
- Qualification Framework for Estate Agents
- Other training activities

6.4 Finance and Administration

6.4.1 Human Resources

- Policies on staff recruitment and other staff related policies
- Employment records and other related policies

6.4.2 Procurement

- Asset register
- Procurement policies

6.4.3 Financial Management

- Financial Statements EAAB
- Financial Statements Fidelity Fund

6.5 Board

Minutes, or extracts of minutes, of meetings of EAAB, committees and senior management

7. THE REQUEST PROCEDURES

A requester must be given access to a record of a 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.

Nature of the request:

- A requester must use the form that has been printed in the Government Gazette [Govt. Notice R187- 15 February 2002] (Form A).
- The requester must also indicate if the requester is for 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 document it can then be viewed in the requested form, where possible [s 29(2)].

- If a person asks for access in a particular form then the requester should get access in the manner that has been asked for. 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 an alternate manner, then the fee must be calculated according to the way that the requester first asked for it [s 29(3) and (4)].
- 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 [s 18(2)(e)].
- If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made should be indicated [s 18(2)(f)].
- If a requester is unable to read or write, or has a disability, then they can make the request for the record orally. The information officer must then fill in the form on behalf of such a requester and give them a copy [s 18(3)].

8. FEES

There are two types of fees required to be paid in terms of the Act, being the request fee and the access fee [Section 22]

A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:

- The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request.
- The request fee payable to public bodies is R35. The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of the request 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 search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

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

8.1 Table of Fees

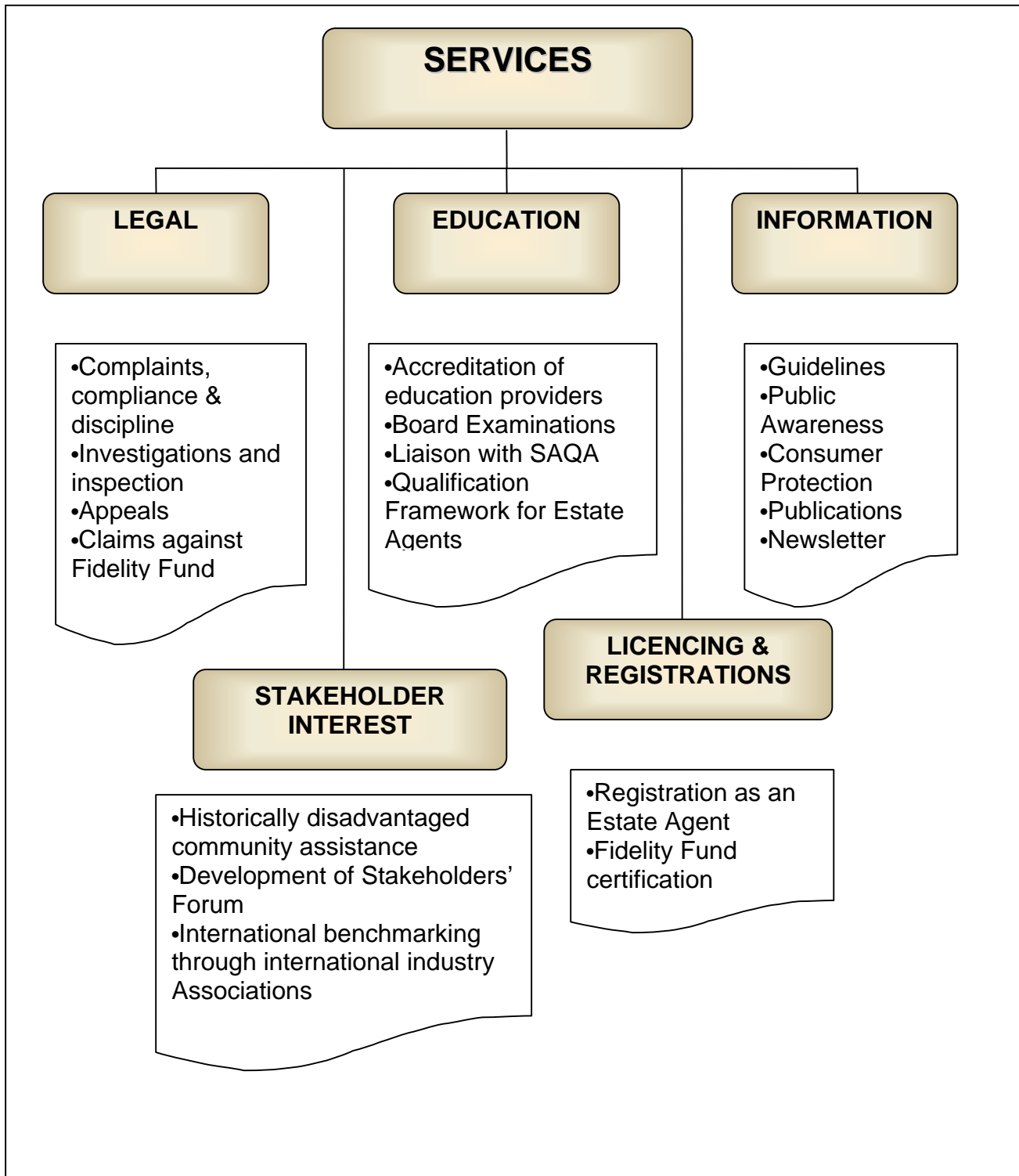
DESCRIPTION	AMOUNT
The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2)	35,00
1 The fee for a copy of the manual as contemplated in regulation 5(c) for every photocopy of an A4-size page or part thereof.	0,60
2 The fees for reproduction referred to in regulation 7(1) 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 on a computer or in electronic or machine-readable form	0,40
c) For a copy in a computer-readable form on i) stiffer disc ii) compact disc (readable form)	5,00 40,00
d) For a transcription of visual images i) For an A4-size page or part thereof ii) For a copy of visual images	22,00 60,00
e) For a transcription of an audio record i) For an A4-size page or part thereof ii) For a copy of an audio record	12,00 17,00
3. The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is R35,00.	
4. The access fees payable by a requester referred to in regulation 7(3) are as follows:	
(1) 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 on a computer or in electronic or machine - readable form	0,40
c) For a copy in a computer-readable form on i) stiffer disc ii) compact disc	5,00 40,00
d) i) For a transcription of visual images, for an A4-size page or part thereof ii) For a copy of visual images	22,00 60,00
e) i) For a transcription of an audio record, for an A4-size page or part thereof ii) For a copy of an audio record	12,00 17,00
f) To search for and prepare the record for disclosure, R15,00 for each hour or part of an hour, excluding the first hour, reasonably required for such search and preparation.	
(2) For purposes of section 22(2) of the Act, the following applies: 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.	
(3) The actual postage is payable when a copy of a record must be posted to a requester.	

9. SERVICES AVAILABLE

[Section 14(1)(f)]

9.1 Nature of Services

9.1.1 Diagram of Services



9.1.2 Arbitration Tribunal

The Estate Agency Affairs Board as a service to estate agents and members of the public, has established an Arbitration Tribunal in each of the following centres:

Johannesburg
Durban
Cape Town
Port Elizabeth
Bloemfontein

The Arbitration Tribunal has jurisdiction to hear all disputes relating to the payment of commission and/or damages to an estate agent, and which arises out of a sales or lease of immovable property, or a mandate in respect thereof, where such estate agent is either the claimant or the defendant

9.1.3 Historically Disadvantaged Individuals and Emerging Estate Agents

The EAAB takes seriously its mandate to transform the real estate industry to reflect the demographic realities of South Africa.

It has accordingly created forums for emerging estate agents where matters of mutual interest and concern can be ventilated and, hopefully, accommodated in the interests of the industry, stakeholders and the public.

Forums currently exist in:

Gauteng

Mrs Segoale Mojapelo	082 774 3320
Mrs Molly Mahlangu	083 752 8869
Mr Tebogo Koloale	082 833 6642
Ms Annette Oberholzer	083 276 2167

North West Province

Mr Saul Thobejane	083 618 2152
Mr O K Makgopela	082 365 9063
Ms Othelia Manzini	083 987 5341
Ms Valley Simelane	083 984 5183
Ms Josephine Maretela	082 269 4602
Ms Lydia Monyamane	082 904 3645
Mr Boy-Boy Makgetla	073 184 5993

Limpopo Province

Mr Alfred Makungo	083 629 9663
Mr T M Nchabeleng	083 313 3247
Mr Levy Mehlape	082 448 3251
Mr Charles Matlakala	082 591 7345
Ms Matseleng Kgokolo	082 429 1930
Mr M S Letsaolo	072 567 2844

Kwazulu-Natal

Durban Branch

Mr Mike Phungula	082 696 1931
Mr Laven Pillay	083 788 1997
Mr Jayce Pillay	082 929 5285
Ms Nomali Shibase	082 445 6511
Ms Ingrid Hadebe	082 876 1966
Ms Bernie Oliver	082 454 4290
Ms Razia Bux	082 452 3042

Pietermaritzburg Branch

Mr Ainsworth Mseleku	(033) 342-7716
Mr Mandla Sikhakhana	083 987 7032
Mr Anthony Mazibuko	082 714 2666
Mr Richard Sibiya	(033) 394-6146
Ms Sandra van Rensburg	083 689 8040

Western Cape

Mr Cecil Halley	082 853 8869
Mr Brain Johnston	083 261 0960
Ms Mandisa Sinuka	073 260 1089
Mr Acamat Abrahams	082 482 2388
Ms Emily Adonis	082 209 0198
Mr Phumzile Makhosana	083 731 4680

Eastern Cape

Ms Valley Mazibuko	072 659 8645
Mr Boy Boy Giba	082 931 2517
Ms Zukiswa Mkatu	083 772 2894
Ms Vicky Sowazi	082 457 1314
Mr Mpumelelo Mbeki	084 721 7243
Ms Cynthia Ndungane	083 537 5482
Mr David Fumbata	072 396 5819

Mpumalanga

Rev J M Sibiya

072 258 8807

Emerging estate agents throughout the country are prevailed upon to communicate with both the Board and their nearest forum in respect of problems which they may encounter and generally to keep these bodies informed of relevant developments at the grass roots level. It is only through knowledge that the necessary interventions can be initiated and problem areas identified and resolved.

9.1.4 Fidelity Fund

The Estate Agency Affairs Act, No 112 of 1976, has established a fund from which any person who suffers pecuniary loss by reason of theft of trust monies by an estate agent may be reimbursed.

9.1.5 Committees of Inquiry

The Estate Agency Affairs Act, No 112, of 1976, empowers the Board to bring and investigate a charge of improper conduct against any estate agent. In practice these powers are exercised by committees of inquiry established by the Board.

The Act and regulations (as set forth in GN R51 of 26 January 2001 as amended, which came into operation on 26 March 2001), provide that any person who feels aggrieved by the acts or omissions of an estate agent, arising from a real estate transaction, may lodge a complaint against such estate agent with the Board.

9.1.6 Seminars

Information seminars are presented by The Estate Agency Affairs Board to inform estate agents of issues of importance to them in an industry which increasingly challenges their skills, knowledge and expertise.

9.2 How to gain access to these services

To gain access to the services at EAAB, requests must be made to the Information Officer of the EAAB.

The Information Officer of the EAAB:

Mr Clive Ashpol

Address: Private Bag X10

Benmore

2010

Tel +27 11 880 9994

Fax +27 11 880 9955

E-mail clive@eaab.org.za

10. ARRANGEMENT FOR PUBLIC PARTICIPATION

[Section 14(1)(g)]

Members of the public may, by prior arrangement:

- address the EAAB and its sub-committees; and
- attend disciplinary hearings.

Written submissions are always welcomed.

Countrywide legal update seminars are a useful forum to address issues to the EAAB.

11. REMEDIES WHERE ACT NOT COMPLIED WITH

[Section 14(1)(h)]

The EAAB does not, because it is a public body as envisaged in para (b)(ii) of the definitions of public body in the Act, have an internal appeal mechanism. The courts will have to be approached in instances where there is no compliance with the provisions of the Act by the EAAB. This would apply to any situation in which the requester wishes to appeal a decision made by the information officer. Although mention is made of internal appeal procedures, this is subject to such a mechanism actually being in place within a public body to facilitate such an internal appeal.

12. OTHER INFORMATION

[Section 14 (1)(i)]

There is currently no information available from the Minister of Justice and Constitutional Development in terms of section 92 to be placed here.

APPENDIX

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

Request	received	Reference number:
(state rank, name and surname of information officer/deputy information officer) on		by
(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
Estate Agency Affairs Board
 Dunkeld Crescent
 North East Block Building
 Cnr Albury Rd & Jan Smuts Ave
 Hyde Park
 Johannesburg

B. Particulars of person requesting access to the record

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

Identity number:

Fax number:

Telephone 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:**

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
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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*
--------------------------	-----------------	--------------------------	---------------------	--------------------------	------------------------------

3. If record consists of recorded words or information which can be reproduced in sound:

<input type="checkbox"/>	listen to the soundtrack (audio cassette)	<input type="checkbox"/>	transcription of soundtrack* (written or printed document)
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4. If record is held on computer or in an electronic or machine-readable form:

<input type="checkbox"/>	printed copy of record*	<input type="checkbox"/>	printed copy of information derived from the record*	<input type="checkbox"/>	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 _____ 20

SIGNATURE OF REQUESTER / PERSON
ON WHOSE BEHALF REQUEST IS MADE