

MEETING THE PEREMPTORY REQUIREMENTS OF THE PROMOTION OF ACCESS TO INFORMATION ACT

Estate agents are reminded that the Promotion of Access to Information Act (PAIA) is the legislation that creates the framework of the right to access information that is enshrined in section 32 of the Constitution. The underlying purpose of the PAIA is to promote a culture of transparency, accountability and good governance in both the private and public sectors.

The PAIA allows persons to request information from private bodies, including juristic persons. The head of a private body is defined by the PAIA as "... the chief executive officer or equivalent officer of the juristic person or any person duly authorised by that office ..."

Private bodies or juristic persons include natural persons carrying on any trade, business or profession; partnerships which carry on any trade, business or profession; or any former or existing juristic person excluding a public body. Juristic persons, therefore, include companies, close corporations, non-profit organisations and trusts. Holding companies and each subsidiary company must prepare and submit separate information manuals.

The PAIA prescribes that the head of a private body must:

- compile a section 51 manual which is a roadmap of the enterprise;
- submit that manual to the South African Human Rights Commission (SAHRC);
- effect material changes, if any, each time such changes occur and, thereafter, resubmit the amended manual to the SAHRC;
- update any material changes to the manual on a regular basis;
- make the manual available as prescribed by the PAIA at the company offices as well as on the relevant internet website;
- annex a request form to the manual and also make request form available on the internet website.

The section 51 manual must, among others, contain the following information:

- details of the company's postal, e-mail and street addresses and facsimile and telephone numbers;
- a description of available records generated by the company stating those which are automatically available and those that are available on request;
- an outline of the request procedure in terms of PAIA;
- who the head of the company is, namely, the chief executive officer or the appointed information officer;
- the fees payable for the furnishing of the requested information;
- remedies available to requesters should a request for information be refused; and
- details to facilitate requests for access to records.

The section 51 manual must be initialed on every page and signed by the head of the organisation on the last page. The manual should then either be e-mailed or posted to the PAIA Unit of the SAHRC at dmalesa@sahrc.org.za or Private Bag X2700, Houghton, 2041.

It is imperative that all estate agency enterprise comply with the requirements of the PAIA since penalties are applicable for any instances of non-compliance with its provisions.