



# DE WIJNLANDEN<sup>®</sup>

## RESIDENTIAL ESTATE

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### DE WIJNLANDEN HOME OWNERS' ASSOCIATION ESTATE DATA PROTECTION POLICY - MAY 2021

(Approved on 20 May 2021)

#### DE WIJNLANDEN RESIDENTIAL ESTATE DATA PROTECTION POLICY

<b>DATA PROTECTION POLICY</b>	
Version Number	Issue 1.1
Date Revision Complete	1 May 2021
Policy Owner	Estate Manager
Author	Ryan Skipp
Reason for Policy	To produce a stand-alone policy on Data Protection and to align the policy with various other requirements highlighted by regulatory requirements or where there is a lack of existing guidance. Eg. POPI Act, CCTV guidelines
Data Protection	The policy is about how the HOA implement Data Protection within De Wijnlanden Residential Estate.
Proof Read	Chris van der Merwe
Date Approved	30 May 2021
Approved by	DW HOA Trustee Committee.
Next Review Due	5 Years or as necessary if legislation changes.
Audience – Training and Awareness Method	HOA and anyone with Data Protection responsibilities.
Effective Date	On approval.
Internal References	Openness and Confidentiality Policy.

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A. van Niekerk, C. Van Der Merve, E. Nell, J. Magner, H. Roosenschoon, L. Moore, R. Skipp, Z. De Witt

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## 1. POLICY STATEMENT

- 1.1 De Wijnlanden Residential Estate recognises that section 14 of the Constitution of the Republic of South Africa, 1996 is an important piece of legislation that promotes an individual's right to privacy. Additional acts, including the Protection of Personal Information Act (POPIA) and the Promotion of Access to Information Act (PAIA), further enforce the protection of any personal information that is kept, whether stored electronically or in hardcopy filing systems.
- 1.2 De Wijnlanden Residential Estate acknowledges that, from a regulatory perspective and for the confidence of the members and residents of De Wijnlanden Residential Estate Home Owners' Association (HOA), a Data Protection Policy will ensure that all personal information collected by De Wijnlanden Residential Estate will be processed lawfully and that individual's privacy rights are upheld.
- 1.3 De Wijnlanden Residential Estate Home Owners' Association is established in terms of Section 29 of the Land Use Planning Ordinance, No 15 of 1985, and registered with the City Council of Cape Town Planning & Building Development Management, with registration number 18/6/1/1/63/6852
- 1.4 The aim of this policy is to ensure that De Wijnlanden Residential Estate carries out the processing of personal information in line with all relevant data protection legislation, and that the HOA's obligations under the POPIA are fully understood and enforced.
- 1.5 The HOA's compliance with data protection legislation will be monitored and enforced by the Estate Manager who is the appointed Information Officer of the Estate.
- 1.6 POPIA prescribes 8 conditions to be followed in order to ensure that personal information is processed lawfully. These 8 conditions that must be followed by all persons involved in the management of information at De Wijnlanden Residential Estate are summarised as follows:
- a) The HOA must ensure that it complies with the 8 conditions and all measures implemented to ensure the lawful processing of information at all times;
  - b) Personal information must be processed lawfully and in a reasonable manner that does not infringe on the data subject's privacy. Information must be processed in a manner that is adequate, relevant and not excessive.

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- c) Personal information must be collected only for a specific, explicitly defined and lawful purpose related to the function or activity of the HOA.
- d) Any further processing of personal information by the HOA must be compatible with the original purpose of collection.
- e) The HOA must take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.
- f) The HOA must maintain documentation of the processing activities regarding personal information. The HOA must also take reasonably practicable steps to ensure that the data subject is aware of their information being collected, the purpose for the collection and any further information necessary.

## 2. PRINCIPLES AND SCOPE OF POLICY

- 2.1 This policy applies to all employees, Management, HOA Trustee Committee Members, agency workers and contractors assigned to De Wijnlanden Residential Estate.
- 2.2 Employees, agency workers and contractors must be informed about data protection issues, and their rights to access their own personal data through the Induction process. HOA Trustee Committee Members will receive guidance on Data Protection during their induction and any contractors and agency workers should be briefed on the importance of data protection at the start of their assignment, for example as it relates to safeguarding sensitive personal information on a HOA Member, resident, contractor or guest.
- 2.3 Compliance with this policy is a condition of appointment with De Wijnlanden Residential Estate and any deliberate breach of the policy may result in disciplinary action, which for serious or deliberate breaches may include dismissal. Knowingly breaching the provisions of POPI may also lead to legal action being taken against the organisation and individuals.
- 2.4 All data/information processed by De Wijnlanden Residential Estate is covered by this policy.
- 2.5 A list of data protection definitions referred to in the Act and the Policy document is attached as Appendix 1.

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### 3. KEY OPERATIONAL FRAMEWORK

3.1 Processing of personal data will only be carried out in circumstances as authorised by section 11 of POPIA. These circumstances are as follows:

The processing of personal information may only occur if:

- a) the data subject, or a competent person if the data subject is under 18 years old, consents;
- b) the processing is necessary to carry out the performance of a contract to which the data subject is a party;
- c) the processing complies with an obligation imposed by law;
- d) the processing protects a legitimate interest of the data subject;
- e) processing is necessary for the performance of a public law duty by a public body; or
- f) processing is necessary for the legitimate interests of the Association or a third party to whom the information is supplied. (S11)

3.2 The processing of special personal information will only be carried out with the individual's explicit consent as outlined in Appendix 2. Special personal information is defined in Appendix 1.

3.3 Data Received From Third Parties – Data which has been provided to De Wijnlanden Residential Estate, in confidence, by a third party such as employment references or tenancy reports cannot be disclosed to the data subject, unless the author of the data (third party) can remain anonymous, agrees to its release at a later date or it is reasonable to comply with the access request without the originator's consent.

3.4 Where personal information is held by De Wijnlanden Residential Estate on residents, owners, tenants, applicants, employees and other individuals, these people have the right to access the information, unless it is exempt under the POPIA.

3.5 Where a request for information is received (this must be in writing on the required form in terms of POPIA or PAIA) De Wijnlanden Residential Estate will respond to the request within 40 days.

3.6 No charge will normally be made for requests for information. However, De Wijnlanden Residential Estate reserves the right to make a charge towards administration, stationery and postage costs where applicable according to POPIA and PAIA.

3.7 De Wijnlanden Residential Estate has appointed and registered the Estate Manager as Information Officer with the Information Regulator of South Africa. The Estate

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Manager shall ensure subsequent requirements for contractor, agent, owner and resident registration are complied with and will liaise with the HOA Trustee Committee on the content of the registration.

- 3.8 De Wijnlanden Residential Estates' Data Protection Policy can be found on the De Wijnlanden Website [www.dewijnlanden.co.za](http://www.dewijnlanden.co.za) and on the Estate App (GLOCMS) documents available to all owners and residents.
- 3.9 De Wijnlanden Residential Estate enables audits for the HOA Trustee Committee to undertake periodic reviews of the information being processed within their portfolios.
- 3.10 Guidance and raising awareness on Data Protection issues, including the use of the Audit Procedures, can be obtained from the Estate Manager. This can include;
- a) For New Residents, Agents, Contractors and employees – Sensitisation will be provided at the induction arranged by the Estate Manager as appropriate.
  - b) Existing Employees – Awareness sessions can be arranged for all employees by contacting the Estate Manager. It is recommended that Data Protection is a subject that is discussed periodically at Trustee Meetings.
  - c) HOA Trustee Committee Members – members of the Committee can be provided with this policy and associated procedures on request. New members of the Committee are provided with awareness training as part of their induction process which should include guidance on Data Protection and Openness and Confidentiality.

## 4. RESPONSIBILITIES FOR COMPLIANCE

- 4.1 The Estate Manager has been appointed as the required Information Officer in terms of the POPIA. His responsibilities include:
- a) The encouragement of compliance with the 9 conditions for lawful processing of personal information;
  - b) Co-ordinating any amendments to De Wijnlanden Residential Estate's Information Officer registration;
  - c) dealing with requests made to the Estate in accordance with POPIA;
  - d) working with the Information Regulator in relation to investigations;

- e) Monitoring and reporting to the HOA Trustee Committee on compliance and any data subject rights or requests;
  - f) Advising Portfolio Owners on audit procedures;
  - g) Advising Portfolio Owners on Data Protection;
  - h) Liaising with the Trustees on De Wijnlanden Residential Estate's Data Protection Policy and any queries arising;
  - i) Liaising with the ICT Portfolio users on matters relating to IT Security; and
  - j) Liaison with the Information Regulator and designated officers as required, for example where there is a breach of data protection principles.
- 4.2 The Estate Manager is responsible for ensuring that storage of digital data, systems back up, storage, disposal of digital media and ICT systems are secure and that all associated data protection policies and procedures are implemented.
- 4.3 The Estate Manager is responsible for overseeing the processing of personal information as well as reviewing any changes made to personal information stored.
- 4.4 The Estate Manager will assist in implementing the requirements of the POPIA by:
- a) Providing advice and support to all portfolios on matters relating to compliance with POPIA;
  - b) Disseminating information relating to the POPIA to those with Data Protection responsibilities;
  - c) Responding and co-ordinating requests from individuals to access personal information held by the HOA about them, whether they be employees (past/present) or tenants, residents, service users or applicants;
- 4.5 Each Portfolio Owner has specific responsibilities for safeguarding the personal and special personal information held on data subjects within their portfolio, and to ensure compliance with the provisions of this policy and POPIA.
- 4.6 It is the individual responsibility of each employee and HOA Trustee Committee Member to ensure they comply with De Wijnlanden Residential Estate's Data Protection Policy and these associated procedures.

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- 4.7 It is the individual responsibility of each employee and HOA Trustee Committee Member to ensure they comply with the De Wijnlanden Residential Estate's Data Protection policy and these associated procedures.

## 5. SECURITY OF DATA (RETENTION AND DISPOSAL)

- 5.1 All employees are responsible for ensuring that any personal data which they hold is kept securely and is not disclosed to any unauthorised third party.
- 5.2 All personal data must be accessible only to those who have prior authorisation and a legitimate purpose for the access. A judgement should be made based upon the sensitivity and value of the information in question versus the purpose for which access is needed.

Personal information must always be kept:

- a. in a lockable room with controlled access;
  - b. in a locked drawer or filing cabinet;
  - c. if data is computerised then it should be stored on network servers with suitable security access levels and protection applied.
  - d. any electronic copies of personal information held on electronic mail or electronic devices must be password protected. Passwords must be changed regularly and not shared with anyone.
  - e. particular care must be taken of portable ICT equipment, memory sticks etc which must be password protected to prevent unauthorised access. Where data is by necessity stored on memory sticks these must be protected by Advanced Encryption Standard encryption and passwords strictly controlled by the Estate Manager.
  - f. sensitive personal data must not be kept on memory sticks or taken from the De Wijnlanden Residential Estate premises on any form of removable media.
- 5.3 Care must be taken to ensure that PC monitors and mobile device screens are not visible except to authorised staff. PC's, mobile phones, tablets and laptops must not be left unattended without password protected screen savers, and manual records must not be left where they can be accessed by unauthorised persons. Employees must operate a "clear desk" policy when finishing work each day.

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- 5.4 Care must be taken to ensure that appropriate security measures are in place for the deletion or disposal of personal data. Manual records must be shredded or disposed of as “confidential waste” as soon as the Estate is no longer authorised to retain them.
- 5.5 This policy also applies to employees who process personal data outside De Wijnlanden Residential Estate premises, such as when working from home. Off-site processing presents a potentially greater risk of loss, theft, damage to personal data. Staff must take particular care when processing personal data at home or in other locations. Any loss of data from either De Wijnlanden Residential Estate premises or off site must be reported to the Estate Manager immediately.
- 5.6 **Retention & Disposal**
- 5.6.1 De Wijnlanden Residential Estate takes all reasonable steps to ensure that personal information is not kept for longer than is necessary to achieve the purpose for which it was collected. Personal information which De Wijnlanden Residential Estate is no longer authorised to retain is shredded, disposed of and removed from all electronic servers and devices immediately.  
See Appendix 4 – Retention of Records.
- 5.6.2 Portfolios and system owners will regularly review the records of data held and will assess the relevant data to be disposed of in accordance with data auditing procedures. De Wijnlanden Residential Estate will comply with external guide lines on the retention and disposal of records where appropriate.
- 5.6.3 Personal data will be disposed in a way that protects the rights and privacy of data subjects (e.g. shredding, disposal as confidential waste, deletion from ICT systems and backups).

## 6. CLOSED CIRCUIT TELEVISION (CCTV)

- 6.1 De Wijnlanden Residential Estate maintains the security of the Estate through the use of Closed Circuit Television systems.
- 6.2 Where CCTV is in use, images are treated as “data” in the same manner as paper or electronic copies of information. The main purpose of collecting data from CCTV cameras is for the protection and security of De Wijnlanden Residential Estate tenants, residents, service users, employees and visitors, as well as for the prevention of crime or anti-social behaviour, and to safeguard De Wijnlanden Residential Estate property. Data from CCTV cameras may be used as evidence during criminal or other legal proceedings and may be passed to other authorised agencies within the scope of the Security Portfolio function.

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6.3 The number and type of cameras is also carefully considered. Tenants, visitors and employees should not feel uncomfortable by the presence of CCTV as it is not used to monitor private areas such as inside a home or garden. It should also be noted that cameras may not always be immediately visible to the casual observer.

6.4 Tenant consultation on any new camera installations includes discussing alternative options, underlying reasons for the need for CCTV monitoring, the number and positioning of cameras, secure image recording and storage facilities, who has access to recorded images and whether the system is temporary, permanent or subject to a period of review.

## 6.5 MONITORING AND RECORDING

6.5.1 Systems in use at De Wijnlanden Residential Estate are monitored on a constant basis as employees continually observe movement along the boundaries. Employees are prohibited from using the system for any unauthorised monitoring and are prohibited from disclosing the movements of people in and around the Estate to any unauthorised persons.

6.5.2 The CCTV monitors are strategically placed in a position to prevent visibility of the screens to unauthorised persons.

6.5.3 Images are recorded on a time loop and are not kept indefinitely. The retention period of CCTV footage depends on the regulations of the third-party service provider as well as De Wijnlanden Residential Estate's own retention periods. The length of time images are stored before being overwritten is known to employees responsible for monitoring the system in order to respond to enquiries from authorised parties.

6.5.4 Recorded images are kept securely and employees may not access these without the permission of the Estate Manager and only for specific purposes related to the use of CCTV, i.e. crime prevention/detection or dealing with anti-social behaviour.

6.5.5 CCTV images are the property of De Wijnlanden Residential Estate, as the Responsible Party.

## 6.6 NOTIFICATION

6.6.1 It is the responsibility of De Wijnlanden Residential Estate, through the Estate Manager (Reactive), to ensure that proper warning signs are sited in all areas

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covered by CCTV in order to notify data subjects that their personal information in the form of images and footage is being collected and processed.

## 7. MONITORING AND REVIEW

- 7.1 On a pre-determined basis, each Portfolio Owner must be provided with a copy of De Wijnlanden Residential Estate's Data Protection Policy requesting that this be reviewed with any proposed amendments incorporated. This process must be prompted by the Estate Manager. Any changes to De Wijnlanden Residential Estate's policy will require the permission of the HOA Trustee Committee.
- 7.2 Any breaches of this policy, or associated procedure activation and data requests will be reported to the HOA Trustee Committee in summary format by the Estate Manager, together with details of the subject and data access requests, and whether or not these access requests have been arranged within the time period set out by POPI.
- 7.3 This policy will be reviewed every 5 years from the date of implementation which will be the date the policy is approved by the Trustee Committee, or earlier if deemed appropriate by changes to legislation.

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## APPENDIX 1

### DATA PROTECTION DEFINITIONS USED IN THIS POLICY

Consent – any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information.

Data subject – person to whom the personal information relates: the unit owner, tenant, trustee and employee.

Information officer – the party responsible for ensuring that the Home Owners' Association complies with the conditions of POPIA;

Operator – the person who processes personal information for the Home Owners' Association: the Managing Agent.

Personal information – information relating to a person including, but not limited to, an ID number, email address, physical address, telephone number, bank details, biometric information, and private correspondence sent by that person.

Processing – activities concerning personal information which include, but are not limited to, the collection, collation, retrieval, erasure, destruction and dissemination of personal information.

Responsible party – a party who processes personal information: the Home Owners' Association.

Record – recorded information regardless of form or medium, in the possession of a responsible party.

Special personal information – information concerning religious/philosophical beliefs, race, ethnicity, trade union membership, political persuasion, health, sex life, biometric information, criminal behaviour of a data subject.

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## APPENDIX 2

### DE WIJNLANDEN RESIDENTIAL ESTATE'S DATA PROTECTION STATEMENT

The statement below may be added to De Wijnlanden Residential Estate forms or documents as necessary to comply with the POPIA and its requirements.

*"De Wijnlanden Residential Estate has registered an Information Officer with the Information Regulator in accordance with the Protection of Personal Information Act 4 of 2013 (POPIA). De Wijnlanden Residential Estate is the Responsible Party with regards to personal information held.*

*Any information that you provide will be treated in confidence and in compliance with the Act.*

*The Estate may pass the information to other properly contracted agencies or organisations, as allowed by the law, in order to fulfil its obligations. They will act as an Operator for De Wijnlanden Residential Estate and are obliged to process information in line with POPIA and our privacy policies.*

*As the Data Subject you have the right to access the information that the Estate holds about you. If you wish to exercise this right please contact the Estate Managers' office in writing or via email, providing details of your request."*

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## APPENDIX 3

### SUBJECT ACCESS REQUEST PROCESS FOR PERSONAL DATA

1. Has the data subject made a request in writing and paid the required fee (if required)?
  - a) YES
  - b) NO (No obligation to disclose)
  
2. Has the person requesting the data satisfied you that she/he is the data subject?
  - a) NO (No obligation to disclose until their identity is confirmed.)
  - b) YES
  
3. Will disclosure of personal data require you to disclose personal data of a third party in order to comply with request?
  - a) YES (Normally no obligation to disclose that part of the personal data relating to the third party unless third party consents or it is reasonable to dispense with consent in order to protect a legitimate interest.)
  - b) NO (De Wijnlanden Residential Estate must provide requested information promptly and in any event within 40 days.)

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## APPENDIX 4

### RETENTION OF DE WIJNLANDEN RESIDENTIAL ESTATE RECORDS

De Wijnlanden Residential Estate processes the personal information of various data subjects including tenants, residents, home owners, service users, housing applicants, employees, applicants for employment and members of the Trustee Committee of De Wijnlanden Residential Estate HOA.

We ensure that all data is processed in accordance with the 8 conditions of lawful processing, as found in section 4 of POPIA, and will be retained securely for as long as the purpose for the collection requires. Special personal information, such as biometric information, will be kept in recognised secure filing systems with controlled access.

De Wijnlanden implements and maintains reasonable and commercially acceptable security procedures and practices to prevent the unauthorised access, destruction, use, modification or disclosure of the personal information held.

All personal information processed by De Wijnlanden Residential Estate is listed below, detailing the applicable retention period and storage criteria.

Table 1 Data Type	Portfolio	Reason	Maximum Retention Period & Reference	Storage
Thermal Camera recordings perimeter	Security	Boundary activity – potential breach detection and investigation.	Up to Six (6) months	Locked server room / electronic systems
Gatehouse Access Control video recordings	Security	Monitoring access control and process adherence. Investigating security related incidents.	Seven (30) Days	Locked server room / electronic systems
Resident and Owner Biometrics Access Control data incl access card <ul style="list-style-type: none"> <li>• Name</li> <li>• Fingerprint</li> <li>• Contact Detail</li> <li>• Address</li> </ul>	Security	<ul style="list-style-type: none"> <li>• Authorisation of authorised individuals to gain access to the Estate.</li> <li>• Reporting of access and egress statistics.</li> <li>• Management of Estate security</li> </ul>	Period of residence in Estate  Up to 30 Days after request for removal and/or termination, after settlement of outstanding accounts	Locked server room / electronic systems Locked cabinet Off site with Service Provider (cloud based)

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		<ul style="list-style-type: none"> <li>• Management in case of emergencies</li> <li>• Rule enforcement</li> <li>• Emergency evacuation procedure</li> </ul>		
Owner and Resident vehicle registration numbers	Security	<ul style="list-style-type: none"> <li>• Rule enforcement</li> <li>• Identification of unauthorised vehicles on the Estate</li> </ul>	Up to 30 Days after termination or change	
<p>Access Control. Visitors and contractors.</p> <ul style="list-style-type: none"> <li>• Vehicle Registration and visitor.</li> <li>• Name,</li> <li>• Surname,</li> <li>• ID number</li> <li>• telephone number.</li> </ul>	Security	<ul style="list-style-type: none"> <li>• Authorisation of authorised external parties to gain access to the Estate</li> <li>• link to their access sponsor.</li> <li>• Rule enforcement,</li> <li>• track, manage and investigate security related incidents.</li> <li>• Reporting of access and egress statistics.</li> </ul>	Period of residence in Estate	Locked server room / electronic systems. Service provider cloud based.
Residents contact details and address	Legal /Social	<p>Internal communication of</p> <ul style="list-style-type: none"> <li>• notices,</li> <li>• warnings,</li> <li>• invoicing,</li> <li>• fines</li> <li>• operational management such as meeting and event notifications</li> </ul>	Up to 30 Days after termination, and settlement of outstanding accounts	Locked cabinet in office and cloud based with service provider

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<p>Biometric Enrolment data for regular visitors, domestic workers &amp; gardeners incl:</p> <ul style="list-style-type: none"> <li>• Name</li> <li>• Fingerprint</li> <li>• Contact Detail</li> <li>• Authorising Address and communication</li> <li>• Vehicle registration</li> </ul>	Security	<ul style="list-style-type: none"> <li>• Authorisation of internal and long-term visitors to Estate,</li> <li>• Identification of authorising party in case of Rule infringement/enforcement</li> </ul>	<p>1 Year</p> <p>Up to 30 Days after request for removal and/or termination</p>	<p>Locked cabinet in locked office in secure building          Locked server room / electronic systems. Service provider cloud based.</p>
<p>Former &amp; Current Residents and owners Files &amp; Glovent Portal data incl</p> <ul style="list-style-type: none"> <li>• Name</li> <li>• Address</li> <li>• Contact details</li> <li>• Email addresses</li> <li>• Forwarding Address</li> </ul>	Managing Agent & Estate Manager	Back up for electronic failures or outages	<p>Period of residence in Estate</p> <p>Up to 3 Years after request for removal and/or termination, after settlement of outstanding accounts          Emergency communication</p>	File Room, Locked Cabinets, off site PGPMS building
<p>HOA Reporting</p> <ul style="list-style-type: none"> <li>• Financials</li> <li>• Meeting Agenda's and Minutes</li> <li>• Data and Reports</li> <li>• Email</li> </ul>	Managing Agent & Estate Manager	<ul style="list-style-type: none"> <li>• Financial Management</li> <li>• Meeting Management</li> <li>• Meeting Agenda's and Minutes</li> <li>• Data and Reports for planning</li> </ul>	Indefinite	File Room, Locked Cabinets, off site PGPMS building

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		<p>purposes</p> <ul style="list-style-type: none"> <li>• Email for long term tracking and auditing.</li> <li>• Property management including Title Deeds</li> <li>• Fines &amp; Penalties trend management</li> <li>• Violation management</li> <li>• Security planning and management</li> <li>• Invoicing and expenditure management.</li> </ul>		
<p>HOA former &amp; current Employment Files</p> <ul style="list-style-type: none"> <li>• Names</li> <li>• Addresses</li> <li>• Salary Information</li> <li>• CV</li> <li>• Personal Data</li> <li>• Email</li> <li>• Certificates</li> </ul>	<p>Managing Agent &amp; Estate Manager</p>	<ul style="list-style-type: none"> <li>• Staff Management</li> <li>• Role and Function Management</li> <li>• Warnings</li> <li>• Training certificates &amp; licences</li> <li>• Medical notifications</li> <li>• Notifications and Memorandums</li> <li>• Salary &amp; Financial reports</li> </ul>	<p>Period of employment plus 3 Years</p> <p>Deletion after 30 days on request.</p>	<p>File Room – , Locked Cabinets, Off site PGPMs building</p>

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		<ul style="list-style-type: none"><li>• Attendance records</li><li>• Uniform and asset records</li><li>• Next of kin and contact.</li></ul>		
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