

# THE MEADOWS HOMEOWNERS ASSOCIATION NPC

(Registration Number: 1998/024775/08 )

## CODE OF CONDUCT

2016/2017



# HOA BOD CODE OF CONDUCT

## 2016/2017

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### A. The Legal Standing of The Meadows Homeowners Association

The Meadows Homeowners Association (TMHOA) is a non-profit organisation established as a body for the shareholders to manager the activities of the estate. The Board of Directors (BoD) is elected on an annual basis in accordance with the provisions of the Memorandum of Incorporation (MOI) to manage the affairs of the estate. The Directors are appointed as directors of the company and need to comply with the Companies Act, Act 71 of 2008 as amended from time to time.

#### **Background**

There are over 3000 HOA in South Africa, with over 5 million residents and R800 billion assets under management, and R11 billion (?) levies on annual basis are collected ([www.hoasupport.co.za](http://www.hoasupport.co.za) website, 29 July 2016).

Therefore, it is essential that Directors recognise the scope of their authority and responsibility, as well as appreciate that they have been entrusted with the care of millions of rands in real estate in the form of members' homes. The 206 homes in The Meadows estate are valued at approx. R500 million in July 2016. In a time of accountability, directors need to ensure that they understand the applicable laws and rules and good corporate governance that is applicable to the role of a Director.

**The Board of Directors** is the non-executive body that provides leadership to the HOA. It forms policies and rules, determines strategy and direction, oversees implementation, appoints management and act as a check and balance for the performance of management. The Directors ensures adherence to the governing regulations of TMHOA to resolve conflicts in managing the estate. In addition, the Directors recognise the need to build a strong sense of community among residents, and to ensure that the estate looks aesthetically appealing, remains safe and has a strong financial standing and maintains property values. The Board of Directors are the people to whom the members of the HOA have given their trust and as such, they will expect them to act in their best interest and to safeguard their property investments and lifestyles. Residents will also expect a high level of integrity and honesty. It is imperative that the board members are fully aware of the implications and responsibilities of the role that they have accepted. Corporate

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Governance provides checks and balance against abuse of power and ensures that integrity and honesty are maintained in providing good stewardship in the management and sustainability of the HOA.

### **B. Scope and Nature of The Duties Of Directors**

Directors are elected by the HOA to manage the affairs and represent the interest of the members of the HOA. As such, a director is placed in a fiduciary position and is required by law to exercise the powers conferred on him/her in the utmost good faith. In order to be able to do this, a director must ensure the following:

#### **a. Integrity and Honesty**

- Avoid conflict of interest. If there are any, it must be declared.
- Take no part in reaching decisions where he/she has a personal interest.
- Always act in the interest of the community he/she represents putting his/her own interest aside.
- Show no favouritism to any individual member of the community.
- Act in the association's best interest also means making decisions on the merits, not because you have an axe to grind or a personal agenda.
- Derive no personal profit from his/her activities.
- Take no payment for his/her services other than legitimate expenses.
- Don't solicit or accept gifts, gratuities, or favours, especially with those given with the intent of influencing a decision.
- Don't seek preferential treatment from board members, committees, contractors, or suppliers.
- Don't advance a personal cause by using your position on the board to enhance your financial status through the use of particular contractors or suppliers.
- Act within the limits of his/her portfolio and the levels of authority for the BOD.
- Treat all matters dealt with by the Board as confidential, even if no longer a director.
- Work within the association's framework and refrain from unilateral action.

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- With other directors, take all reasonable steps to secure and preserve the property of the Members.
- Take all reasonable care to ensure that no other directors commit a breach of trust. If there are any, it must be declared.
- Maintain confidentiality of association matters when it's appropriate. For example, if the association is involved in litigation with an owner, you should never discuss board actions and decisions about the litigation outside board meeting.

### **b. Corporate Governance**

Directors will:

- Ensure that he/she is fully informed, understands, and is knowledgeable of the binding documents of TMHOA and to which all residents are accountable. These include the MOI, Rules and Regulations, Design Rules, Accredited Estate Agreement, Clubhouse Rules, PAIA Manual and any other rules, as the directors may issue and update from time to time.
- Know the rules, the budget and the estate. Read, reread, and be well versed in your governing documents and prior minutes. These documents are your foundation. Read all relevant materials before meetings so you're prepared to discuss issues and make sound decisions. Be very well versed in your association's budgetary requirements and restraints.
- Be properly informed about the relevant legislation to Estate, including but not limited to Companies Act, best practices, Labour Relations Act, National Environmental Management Act, POPI Act and OSH Act.
- Refuse to support actions deemed not in conformity with the HOA Constitution or general law.
- Take professional advice when necessary.
- Use competitive bidding. The easiest way to avoid the appearance of impropriety in association contracts is to seek competitive bids for all projects over a certain amount and if no preferred supplier is in place.

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- Commit your time. If you agree to be a board member, make your service a priority. Expect to attend as many meetings as you can, and attend almost all of them.

### **c. Relationships and Communication**

Directors will:

- Strive towards building relationships built on respect, trust, cooperation and care and recognises that they are part of the same team.
- Commit to achieve common goals, maintaining good relationships and continually striving to improve the process of decision making and performance as a team.
- Set an example of humility and demonstrate the value of respect for others in behaviours, language, manners, tone and voice and all forms of communications, where ideas are examined and criticised, not people.
- In cases of disagreements among directors, strive toward consensus, incorporating the wisdom from different viewpoints and accept the leadership and decisions of the Chairperson and the fellow board members.
- Accept that the Board operates by majority decision and the individual director/s must be prepared to support such decisions in public.
- Satisfy himself/herself that adequate management controls are in place.
- Where specific portfolios have been allocated to individuals, to run that portfolio in accordance with accepted good business practice.
- No to delegate task allotted to him/her, unless special skills are required.
- Furnish information on request by Directors and Members, in line with established protocol and POPI Act and guidance in PAIA manual.
- Know the professionals you're dealing with. Be on a first-name basis with your managing agent, accountant, and attorney so that you feel comfortable calling for advice and support.
- Always exhibit professional behaviour. Treat your constituents — unit owners — with respect and decency. You'll be surprised at how many problems don't happen when there's open dialogue between the board and association members. Don't harass association members or residents, and

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refrain from defaming anyone in the community, including the managing agents, partner company's fellow board members.

Directors are not required to be experts in any particular area in which they operate, unless they have the relevant professional skills, if they have, they will be judged according to that professional standard, if not, the standard will be that of the reasonable man.

**C. Scope and nature of the duties of subcommittee members**

Subcommittee members will be held to the same standard as documented for directors in the code of conduct.

Subcommittee members need to ensure that they operate within the framework of the tasks allotted to them under the management of the directors.

This means the subcommittee members serve only as advisors and will not execute tasks outside the mandate provided to them by the BoD.

**D. Declaration By Directors**

We, the undersigned, have read and understood the above document and hereby declare that we will be bound by it in the execution of our duties as a Directors of The Meadows Homeowners Association. If we breach this code of conduct, we would be subject to the sanctions imposed by the BoD.

ROLE	NAME	ERF	SIGNATURE	DATE
Chairman and Finance:				
Vice Chairman and Communication:				
Security:				
Legal:				

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ROLE	NAME	ERF	SIGNATURE	DATE
General and Maintenance:				
Aesthetics & Design Guidelines:				
Special Projects:				

**Note:** in the event that a sub-committee is created, an annexure to this Code of Conduct must be created for the sub-committee members to sign accordingly.



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### ANNEXURE A: Declaration By Sub-Committee members

We, the undersigned, have read and understood the above document and hereby declare that we will be bound by it in the execution of our duties as Sub-Committee members of The Meadows Homeowners Association. If we breach this code of conduct, we would be subject to the sanctions imposed by the BoD.

SUB-COMMITTEE	NAME	ERF	SIGNATURE	DATE