



Terms of Reference:
The Amahlathi Residence Association –
Legal Action Committee

- 1.0 Purpose:** The Legal Action Committee (LAC), will serve to oversee all legal processes where the Amahlathi Residence Association (ARA) is either initiating legal steps against a defendant or responding to any legal action against the ARA or its members.
- 2.0 Focus Area:** The LAC will focus on using all legal means in ensuring the residents and businesses of the greater Amahlathi area are provided with all relevant services as legislated, at the same time protect the rights of paid up ARA members.
- 3.0 Mandate:** In terms of the Section 14 of the Amahlathi Residence Association (ARA) Memorandum of Incorporation(MOI) the ARA are allowed to establishment of any office to achieve its objectives in terms of section 5 of the MOI. Section 14 stipulate the following:

14. Officers

- 14.1 The Board may appoint any officers it considers necessary to better achieve the stated objects of the Company.*
- 14.2 The Board may appoint any number of committees, and to delegate to any such committees any of the authority of the Board.*
- 14.3 Any committee appointed by the Board:*
- 14.3.1 may include in any such committees persons who are not directors, provided that:*
- 14.3.1.1 any such person must not be ineligible or disqualified to be a director in terms of section 69; and*
- 14.3.1.2 no such person has a vote on a matter to be decided by the committee,*
- 14.3.2 may consult with or receive advice from any person; and*
- 14.3.3 has the full authority of the Board in respect of a matter referred to it.*

- 4.0 Composition of the LAC:** The committee will consist of a minimum of 3 (three) members up to 6 (six) members, who must then select a chairperson for such committee, subject to the minimum requirements of Section 14 of the ARA MOI. Recommended members for committee attached as **Annexure A**.
- 5.0 Decision Making:** The committee can approve all its decision by a ordinary vote with at least more than 50% of the members of the committee voting in favour of such decision, in the event of tie the chairperson will have a casting vote.
- 6.0 Minutes:** All meetings of the committee must be documented in terms of resolutions in the form of minutes. With minutes to be signed by the chairperson for submission to the company secretary.

7.0 Reporting: The committee will supply reports in terms of quarterly reports every 3 months or as and when a project is completed.

8.0 Funding of Operations: The LAC will be funded subject to the following terms:

8.1 It may apply for budget from the Management Committee, who may allocate budget from own resources to the committee.

8.2 Alternatively, the LAC may raise funding outside normal funding of the ARA, in the form of:

8.2.1 Obtaining donations from private sector or

8.2.2 Entering into unsecured loans from willing funders, which must be repaid subject to the ARA recovering the money from either members or the relevant authority that failed to provide the required services, material or infrastructure. The loans will be subject to such loans not be secured, have no term for repayment and it be provided interest free. Any loan agreement is subject to approval by the ARA Management Board.

8.2.3 All funding for the LAC will be paid into a separate bank account to ring-fence funding and for accounting purpose.

9.0 Delegations to Committee: The committee may procure and pay for goods and services as follow:

9.1 Procure services as follow:

9.1.1 Identify and contract legal service providers, with the requisite skills to deal with the legal requirements of the ARA. Establish a rate agreement with appointed service providers, which include payment terms. Where possible negotiate terms where legal service provider will recover cost via court order.

9.1.2 Present the recommended legal service providers to the management committee, who must approve the agreements. Maintain a register of all appointed legal service providers, assigning a contract number for each appointment.

9.1.3 In emergencies appoint any person or company to assist in resolving such emergency, providing that the person or company be informed that the ARA will only be able to settle reasonable cost within it available budgets.

9.2 Approve the payment of Invoices:

9.2.1 All invoices must reflect the applicable contract number as recorded in the register of legal service providers.

9.2.2 All invoices must be in line with legislative requirements.

- 9.2.3** All invoices have an accompanying delivery note or completion certificate or activity report or court order.
- 9.2.4** Signed by at least two members of the LAC.
- 9.2.5** Invoices must be presented to the treasurer supported by all required documentation.
- 9.2.6** Sufficient funding must be available to settle invoice.

9.3 Approve and settle claims from members:

- 9.3.1** Any claim from an LAC member or any other person that performed services to the LAC, incurring incidental cost and limited up to R2000 per claim.
- 9.3.2** Claims must be supported by a proof of payment and signed by at least 2 LAC members.
- 9.3.3** Claims must be presented to the treasurer supported by all required documentation.
- 9.3.4** Sufficient funding must be available to settle invoice.

10.0 Approval:

The ARA Management Board approved this Terms of Reference via e-mail on 29 October 2019.

Signed:  _____
ARA Chair Person

*The Amahlathi Residents Association is a Registered Non-Profit Company: 2019/151068/08
Directors: DH Kemp (Chairperson), AC Pretorius and ZZ Mzati.*

Annexure A

The following ARA Members has been nominated and appointed to the Committee:

- Davron Swift
- Stuart Vickers
- John Rance (Snr)