GROUNDS FOR APPEAL OF REFUSAL TO GRANT ACCESS TO DOCUMENTS REQUESTED IN PAIA APPLICATION PERTAINING TO THE APPLICATION BY THE PINELANDS HOCKEY CLUB TO LEASE PORTION OF ERF 3138 PINELANDS

Case ID : 100087216 - 2026

1. The administrative officials who refused the application failed to consider each item and respond with a considered and reasoned response to each separate item with reference to the particular sub-section of section 44 of the Promotion of Access to Information Act No. 2 of 2000 (hereafter referred to as "the Act"), which they claim is applicable and why they should exercise their discretion ("*may refuse")* to refuse each particular item in terms of the particular subsection of section 44 of the Act that they claim to be applicable. Instead the official/s concerned simply copied and pasted the entirety of section 44 with no explanation of which sub-section they were relying on for each item and why. This creates the clear impression that the official/s concerned failed to apply their mind/s to the application and simply dismissed it with a formulaic, generic, "catch all" response.

2. The timing of the notice advising us of the refusal of the application further reinforces our belief that the request was refused without due consideration having been given to the nature of the four different categories of documents that were requested and whether or not there were valid reasons to deprive us of access to the information.

   An email from Emmanuel Mashele (Deputy Information Officer : Access to Information Unit) was received by us on Friday 12 June 2026 at 14h37, requesting proof of payment for our PAIA application. Our request had been replied to on 4 June 2026 indicating that "Your request will accordingly only be processed upon receipt of payment thereof". The confirmation of payment was emailed at 15h09 on Friday 12 June, and receipt was acknowledged by Emmanuel Mashele at 15h12.

A PDF letter titled “OUTCOME IN TERMS OF SECTION 44 OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2 OF 2000 [‘PAIA’]: REQUEST FOR RECORDS PERTAINING TO ERF 3138 PINELANDS – APPLICATION FOR A LEASE BY PINELANDS HOCKEY CLUB.” was emailed to us on Monday morning 15 June 2026 at 07h15. The PDF document itself had been created at 06h55.

This is clearly indicative that time and due consideration was not given by the internal departments, as indicated in paragraph 3 of the reply.

3. Item 1 of the request: “Copy of every comment, objection and/or alternative proposal received by the City regarding the lease application by the Pinelands Hockey Club to lease portion of Erf 3138 Pinelands”

3.1. The documents requested under item 1 do not fit the description of any of the documents/records/information listed in subsections 44(1) and (2) as information that could be refused by the information officer of a public body.

3.1.1. They do not constitute: an opinion, advice, report or recommendation for the purposes listed, or an account of consultation, deliberation or discussion for the purposes listed in subsection 44(1)(a).

3.1.2. It could not rationally or reasonably be argued that furnishing us with access to the requested documents would frustrate the deliberative process in a public body as envisaged in subsection 44(1)(b)(i) or that disclosure of the record would be a premature disclosure of a policy as envisaged in subsection 44(1)(b)(ii) as they are not policy documents that are being requested.

3.1.3. The documents have nothing to do with a testing, examining or auditing procedure and therefore subsection 44 (2) (a) is not applicable.

3.1.4. The documents requested are not records that contain evaluative material and therefore subsection 44(2) (b) is not applicable.

3.1.5. The documents do not constitute any form of draft of an official of the City of Cape Town or any other public body and therefore subsection 44(2) (c) is not applicable.

3.2. In addition to there being no ground in section 44 of the Act upon which access could lawfully be refused, the applicant, being the Pinelands Hockey Club has been/will be given access to the requested documents. This was stated in the notices published by the City calling for comments, which read: "*Any response received will be submitted to the applicant for comment*……." How can it rationally and reasonably be argued that it is fair for the applicant to be given access to the comments submitted to the City whilst adjacent landowners and other interested and affected parties are refused this information?

3.3. It would be impossible for ourselves and other interested and affected parties to know whether or not the decision-making entities have "*carefully assessed prior to making a decision*" all comments submitted as part of the public participation process if we do not have access to all the comments that were submitted by the public.

3.4. The line department argues that our request is currently premature because they have received a substantial number of submissions that are currently being reviewed, collated and assessed. The fact that a substantial number of submissions have been received and that they are currently being assessed in no way explains or provides a reasonable justification for refusing to release them to interested and affected parties. To the contrary, we too will need time to review, collate and assess the substantial number of comments submitted if we are to ensure that they are properly assessed by those who make decisions about the application. Whilst the city officials who will be reviewing the substantial number of comments are paid salaries to be doing

what they are doing – salaries that are funded by the rates paid by adjoining owners of the leased land an other interested and affected parties, we in turn need to find time to review the comments after hours, our working days being spent earning incomes to pay our rates amongst other expenses.

3.5. Paragraph 5 of the letter refusing our request states that this has been a preliminary process and that in due course there will be a "*Formal Public Participation":*

3.5.1. We are in the dark about what the process ahead is as repeated questions put to the City for clarity on this have been ignored.

3.5.2. There is no explanation as to why the process that has taken place to date is not regarded by the line department as "formal".

3.5.3. Whether the line department regards the process that has taken place up until now as formal or informal, a substantial number of people (by the line department's own admission) took time and trouble (time that was not paid for by taxpayers as are the salaries of the line department officials) to prepare and submit comments, and we are not prepared to have those swept under the carpet as preliminary or informal.

3.5.4. Even if the process that has taken place so far is regarded by the line department as preliminary, this is no reason, either in logic or in terms of section 44 of the Act, to refuse to make the comments that have been submitted available to us.

3.6. Paragraph 6 of the letter refusing our application reads: "*Consequently, due to the ongoing nature of the process herein, any disclosure at this juncture will be premature and affect the thorough process of the City to examine the documents which will result in productive public engagement in due course. Accordingly, Mr and Mrs Spencer's request for access to the records detailed herein, is hereby refused*." This makes NO sense! How would our being given access to the comments affect the City's ability to examine them?? How will it affect their ability to engage productively with the public in due

course?? To the contrary, their refusal to furnish us with the comments received by them would affect their ability to engage productively with the public, and this kind of obstructive, untransparent behaviour, the same that we experienced prior to the deadline for comments, leads to a lack of trust in the City and reinforces a belief held by many interested and affected parties that the City has been going through the motions of a public participation process rather than having a genuine wish to meaningfully engage with the public.

4. Item 2 of the request: "Copy of the lease application by Pinelands Hockey Club to leas portion of Erf 3138 Pinelands"

4.1. The documents requested under item 2 do not fit the description of any of the documents/records/information listed in subsections 44(1) and (2) as information that could be refused by the information officer of a public body.

4.1.1. They do not constitute: an opinion, advice, report or recommendation for the purposes listed, or an account of consultation, deliberation or discussion for the purposes listed in subsection 44(1)(a).

4.1.2. It could not rationally or reasonable be argued that furnishing us with access to the requested documents would frustrate the deliberative process in a public body as envisaged in subsection 44(1)(b)(i) or that disclosure of the record would be a premature disclosure of a policy as envisaged in subsection 44(1)(b)(ii) as they are not policy documents that are being requested.

4.1.3. The documents have nothing to do with a testing, examining or auditing procedure and therefore subsection 44 (2) (a) is not applicable.

4.1.4. The documents requested are not records that contain evaluative material and therefore subsection 44(2) (b) is not applicable.

4.1.5. The documents do not constitute any form of draft of an official of the City of Cape Town or any other public body and therefore subsection 44(2) (c) is not applicable.

4.2. The applicant and the ward councillor for Pinelands have made contradictory public statements regarding the reason/s why the applicant is applying to lease a portion of land that is substantially bigger than is required for an astroturf. We reasonably require to see what details were submitted by the applicant in the lease application and the line department has furnished no lawful reason why this information could or should be withheld from us.

5. Item 3 of the request: "A draft of the lease agreement that the City proposed to enter into with the Pinelands Hockey Club in respect of portion fo Erf 3138"

5.1. In a similar vein to items 1 and 2, the document requested does not fit into any of the categories set out in subsection 44 (1) and (2) of the Act as grounds upon which the City could refuse access to the information.

5.2. We as adjoining owners of the land concerned, and interested and affected parties, have been asked to comment on a proposed lease. There is no lawful reason why we should be refused access to a draft of the lease agreement that the City proposes to enter into.

6. Item 4 of the request: "Minutes of every meeting held by the City of Cape Town at which (a) The aforesaid proposed lease was discussed; and/or (b) The proposal by the Pinelands Hocky Club to build an Astroturf on portion of Erf 3138 was discussed.

This is the only item which could possibly be refused on the basis of the grounds set out in section 44 of the Act, more particularly subsection 44(1)(a). Even though the information could be refused does not mean that it should be refused if the City has

nothing to hide, and if it were a City that conducted itself in an open and transparent manner. Nonetheless, given that Mr Siraaj Slamang has already informed another interested and affected party that no minutes were kept of the meeting at which a decision was taken to approve the building of an astroturf subject to a successful lease application, it would be in the interest of all parties who have submitted objections to understand the reasoning and thought process behind the arrival at the current state.
