

Dear CSOS,

Please see below Mr Theo Fitchat's response to the allegations made by Mrs Yvonne Viljoen regarding Mr Fitchat's surveillance cameras as indicated in your email dated 11 April 2022.

1. The allegations contained in Mrs Viljoen's application are denied by Mr Fitchat.
2. Mrs Viljoen's application (CSOS 67/WC/22, 30 March 2022) regarding Mr Fitchat is substantially the same as Mrs Johnson's (CSOS 7648/WC/21, 24 February 2022) and Mrs Franken's (CSOS 8440/WC/21, 28 March 2022).
3. Please see Mrs Viljoen's allegations in the tables below, and Mr Fitchat's responses to each allegation below each table.

**DETAILS OF APPLICATION/ALLEGED BREACH:**

CSOS/Reg/16/WC/003672

17 JANUARY 2022, THE HOME OWNER STARTED INSTALLING OSOMETRIC CAMERAS...

4. Mr Fitchat denies having installed "osometric" cameras on his property, and Mrs Viljoen is put to the proof thereof.

...ON UP TO 11 SITES ON HIS ROOF AND SKIRTING OF ON HIS PROPERTY.

5. Mr Fitchat denies having installed any cameras on his roof, and Mrs Viljoen is put to the proof thereof.
6. Mr Fitchat denies having installed any cameras on his skirtings, and Mrs Viljoen is put to the proof thereof.
7. Mr Fitchat has installed surveillance cameras on the fascia boards of the outside of his house.

AT LEAST 3 OF THESE LOOK DIRECTLY INTO MY FRONT YARD AND INTO MY DAUGHTERS BEDROOM WINDOW AND MY BALCONY.

8. Mr Fitchat denies that any of his surveillance cameras look directly into Mrs Viljoen's front yard, into her daughter's bedroom window, or onto her balcony, and Mrs Viljoen is put to the proof thereof.

I REPORTED THE MATTER TO OUR HOME OWNERS ASSOCIATION ON MULTIPLE OCCASIONS.

THEY HAVE ADVISED THAT WHILST THE CONSTITUTION OF THIS ESTATES MAKES PROVISION FOR HOMEOWNER FITCHAT TO HAVE OBTAINED PERMISSION TO INSTALL THESE ITEMS, HE DID NOT.

9. Mrs Viljoen is to please clarify where in the Kleinbron Estate Constitution it specifies that Mr Fitchat has to obtain permission from the Home Owners Association to install surveillance cameras.
10. Mr Charl du Toit, the owner of SJC Security, the security company employed by Kleinbron Estate, personally recommended it to Mr Fitchat to install surveillance cameras.

THE USE OF CAMERAS AT YOUR OWN HOUSE IS SUPPORTED BY LAW IF THE USERS INTENTION IS FOR PRIVATE SECURITY REASONS.

11. Mr Fitchat confirms that his surveillance cameras are to ensure his family's and property's security.

THE EXTREME AMOUNT OF CAMERAS IS NOT WARRANTED IN A SECURITY ESTATE.

12. On 1 March 2022, a month before Mrs Viljoen lodged this application with CSOS, there was a burglary during the night at a house in the middle of the estate (please see Addendum A), so just the fact that we live in an estate is not a guarantee that our properties are safe.
13. Following the burglary, Mr Charl du Toit from SJC Security placed advertisements for surveillance cameras, which come in sets of 4, 8 or 16, on the Kleinbron Als Whatsapp group (Please see Addendum B).
14. The extreme amount of concern by Mrs Viljoen that her right to privacy and safety is being infringed upon is not warranted in a security estate.

FURTHERMORE, WE HAVE BEEN ADVISED HE IS RECORDING.

15. Mr Fitchat confirms that his surveillance cameras are used for their intended function, which is to record.

IN TERMS OF POPI 2013 AND RICA,.

I DID NOT GIVE HOMEOWNER FITCHAT PERMISSION TO RECORD THE MUTUAL MUNICIPAL STREET MY MINOR CHILDREN WALK ON, MY FRONT YARD OR MY DAUGHTERS WINDOW OR BALCONY

16. Mrs Viljoen is to please specify where “in terms of POPI 2013 and RICA” it is indicated that Mr Fitchat is obliged to ask her permission to record publicly visible areas.

17. Mr Fitchat denies recording any private areas of Mrs Viljoen’s property, and Mrs Viljoen is put to the proof thereof.

18. These allegations are also addressed elsewhere.

**EXHAUSTION OF INTERNAL REMEDIES:**

MANY HOMEOWNERS OF FRANGIPANI STREET AND OTHER STREETS WITHIN THE ESTATE HAVE LODGED FORMAL COMPLAINT WITH OUR HOME OWNERS ASSOCIATION WHO I AM AWARE HAVE MET WITH THEO FITCHAT ON MORE THAN ONE OCCASION TO REQUEST HIM TO RE POSITION THE CAMERAS AND TO ENSURE THEY DO NOT OSCILLATE AND THAT HE DOES NOT RECORD ANY OTHER AREAS / PERSONS NOT RELATED TO HIS PREMISES. THEY WERE UNABLE TO COME TO SUCH AGREEMENT. HE DECLINED TO ACCOMODATE THIS REQUEST FROM HIS NEIGHBORS.

19. Mr Fitchat denies the allegation that his surveillance cameras oscillate, and Mrs Viljoen is put to the proof thereof.

20. Mr Fitchat has received two other CSOS applications regarding his surveillance cameras, which he has answered, but he is unaware of any other neighbours complaining about his surveillance cameras.

21. This is the first time Mr Fitchat has been made aware of the fact that Mrs Viljoen was dissatisfied with his surveillance cameras.

22. Mrs Viljoen is put to the proof of the rest of her statement above.

**RELIEF SOUGHT:**

HE REMOVE ALL CAMERAS FORTWITH THAT ARE POINTING IN THE DIRECTION OF MY FRONT YARD, HE WILL NOT PAN / TILT THEM. FAILING

WHICH I WILL OBTAIN A MAGISTRATES COURT INTERDICT AGAINST HOMEOWNER FITCHAT AS AS HIS EXCERCISING OF HIS RIGHTS TO PLACEMENT OF SAID CAMERAS ARE A VIOLATION OF MY MINOR CHILDREN AND MY FAMILIES RIGHT TO PRIVACY AND SAFETY.

23. Mr Fitchat's surveillance cameras do not violate Mrs Viljoen's family's or children's right to privacy and safety.
24. Static surveillance cameras can also be moved manually, and do not automatically provide more protection against privacy infringement than PTZ (pan tilt zoom) surveillance cameras.
25. Mr Fitchat refuses to remove his surveillance cameras.
26. Mr Fitchat guarantees that he will not use his surveillance cameras to violate Mrs Viljoen's family's and children's right to privacy and safety.
27. It is Mrs Viljoen's legal right to apply for an interdict.
28. Mr Fitchat queries why Mrs Viljoen is choosing a prolonged process of unsubstantiated complaints regarding Mr Fitchat's surveillance cameras to the Kleinbron Estate manager and CSOS, instead of just having applied for an interdict three months ago when Mr Fitchat installed his cameras.

**ADDITIONAL INFORMATION:**

REFER : BILL OF RIGHTS : RSA CONSTITUTION

REFER : The Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002

REFER POPI 2013 : HIS FILMING AND OR STILL IMAGES BEEN COLLECTED BY THE CAMERAS IS UNLAWFUL

29. In order for Mr Fitchat to fully answer Mrs Viljoen's allegations, Mrs Viljoen is to please indicate which specific parts of the above laws are relevant to which of her arguments.
30. Mr Fitchat confirms that he is using his surveillance cameras only in a lawful manner.

**SUPPORTING DOCUMENTATION:**

PHOTOGRAPH

31. Mrs Viljoen is to please specify how the photograph she included in her application is relevant to which of her arguments.
32. According to the Criminal Procedures Act, 51 of 1977, a video recording is a series of photographic images.
33. Mr Fitchat's allegedly illegal video recordings of allegedly Mrs Viljoen's house are a series of photographs, similar to the allegedly legal photograph taken by Mrs Viljoen of factually Mr Fitchat's house.
34. Mrs Viljoen's photograph of Mr Fitchat's house that is included in her application violates Mr Fitchat's privacy to the same extent as she alleges Mr Fitchat's surveillance cameras violate her privacy, as Mrs Viljoen has taken a photograph of Mr Fitchat's main bedroom window, his child's window, and two bathroom windows without having obtained his permission to do so.
35. Mrs Viljoen's photograph also includes the windows of four apartments in the Mews, including one with open curtains.
36. Mrs Viljoen is to please confirm that she has obtained the permission of the Mews residents of whose windows she has taken a photograph.
37. If Mrs Viljoen is accusing Mr Fitchat of violating her right to privacy by recording publicly visible areas with his surveillance cameras, she is, with her own evidence, transgressing the exact same law she is accusing him of transgressing.

**OTHER DOCUMENT INCLUDED IN APPLICATION:**

Constitution

38. Mrs Viljoen is to please specify which part of the Kleinbron Estate Constitution is relevant to which of her arguments.

**OTHER DOCUMENT INCLUDED IN APPLICATION:**

HOA Rules

39. Mrs Viljoen is to please specify which part of the HOA Rules is relevant to which of her arguments.

**OTHER DOCUMENT INCLUDED IN APPLICATION:**

TRAIL MAIL

(Please see excerpts below)

91 Frangipani Street has installed multiple osmometric cameras of which quite few are directed at our home.

40. Mr Fitchat denies having installed “osmometric” cameras on his property, and Mrs Viljoen is put to the proof thereof.

41. Mr Fitchat denies that his surveillance cameras are directed at Mrs Viljoen’s home, and Mrs Viljoen is put to the proof thereof.

Whilst it is not unlawful to install CCTV cameras it is Unlawful to infringe on my human right as a neighbour with a camera pointed at my house inclusive of my daughter’s bedroom windows and if he is recording this data without my permission may be deemed to be in contravention of POPIA and also what is my guarantee that is he not filming my minor children without my permission.

42. These points are already addressed elsewhere in this reply.

I expect to be dealt with immediately and I require feedback why his camera/s are pointed at my house and if he is filming and what he is doing with the material.

43. Mr Fitchat confirms that he is only using his surveillance cameras for his family’s and property’s security.

44. Mr Fitchat’s house was vandalised during Christmas 2021, so Mr Fitchat installed surveillance cameras in January 2022 to secure his property.

45. Mr Fitchat has also obtained two Rottweilers to further secure his property.

46. The Kleinbron Estate manager has on more than one occasion indicated that home owners are responsible for the security of their own properties (Addendum C).

47. Mr Fitchat contends that Mrs Viljoen’s application regarding Mr Fitchat’s surveillance cameras are related to a Whatsapp posted on 10 January 2022 on the Kleinbron Als Whatsapp group by Mr Fitchat’s other neighbour, Mr Tyrone Johnson, in which Mr Johnson falsely accused Mr Fitchat that he recorded his child in a towel (Addendum D).

48. Mr Fitchat contends that Mr Johnson and his other direct neighbours with whom Mr Johnson is friends, including Mrs Viljoen, know that Mr Fitchat did not record Mr Johnson's child in a towel.

49. The reasonable interpretation of Mr Johnson's post that Mr Fitchat recorded his child in a towel was that Mr Johnson was alleging that Mr Fitchat is a pedophile.

50. Mr Fitchat contends that his neighbours are using the allegation that Mr Fitchat inappropriately records children as an excuse to harass Mr Fitchat, and to pressure him to decrease the security of his house by insisting that he remove his cameras.

51. Despite Mr Fitchat contending that his direct neighbours and their friends do not genuinely believe he is a pedophile, Mr Fitchat is willing to undergo an assessment by an impartial clinical psychologist appointed by CSOS, and for the results to be made available to any interested parties to reassure them that Mr Fitchat does not pose a threat to anyone.

52. Mr Fitchat's wife, Mrs Sonet Fitchat, is also willing to undergo an assessment by an impartial clinical psychologist appointed by CSOS.

Else I am going to be forced to seek legal action myself.

53. It is Mrs Viljoen's legal right to do so.

The owner of House #91 has installed oscillating CCTV Cameras all over his property, inclusive of gutters and cowl.

54. Mr Fitchat denies that he has installed any oscillating cameras, and Mrs Viljoen is put to the proof thereof.

55. Mr Fitchat denies that he has installed any cameras on any of his gutters or cowl, and Mrs Viljoen is put to the proof thereof.

Two to Three of these Pan, Zoom, Tilt Cameras point directly at my home #58.

Two at my Balcony and Daughters Bedroom window.

One at my front yard and home office.

56. These points have already been addressed elsewhere.

This is unacceptable.

This is an invasion of my Privacy that a home in my street sees it within his rights to install oscillating cameras which point directly at his neighbours properties and bedrooms and balconies.

This is NOT protecting his ERF perimeter, this is blatant spying on neighbours.

57. Mr Fitchat denies spying on any of his neighbours.

58. Mr Fitchat has no interest in his neighbours, and they and their movements are not of any interest or relevance to him in any way, unless they are engaging in illegal activities which affect him, his family and/or his property.

What purpose does this serve to protect his safety?

59. Mr Fitchat's surveillance cameras view the public area surrounding his house in order to more clearly identify illegal activity and potential criminals.

What guarantee do we have that the owner at #91 is not filming my Home and My Family?

He would need my consent and that of my husband should he wish to film our minor children.

He has not obtained any permission.

The position of his cameras and the fact they are allowed to pan, zoom or tilt violates my family's privacy.

60. Mr Fitchat's surveillance cameras have a PTZ (pan tilt zoom) ability to adjust them as needed.

61. Mrs Viljoen indicates that the mounted position and PTZ ability of Mr Fitchat's surveillance cameras, and not to where they are pointing, violate her family's privacy.

62. Mrs Viljoen is thereby acknowledging that Mr Fitchat's surveillance cameras are not pointed directly at her home and family.

63. If Mrs Viljoen's argument is that Mr Fitchat's surveillance cameras can potentially invade her privacy, she is thereby admitting that Mr Fitchat's surveillance cameras are not invading her privacy, and are merely capable of doing so, instead of factually doing so.



64. An individual cannot be found guilty of something that they can only potentially do, but that they do not, in fact, do.

65. Therefore Mr Fitchat cannot be found guilty of pointing his surveillance cameras at her home and invading her privacy, if he does not in fact do so.

66. Mrs Viljoen's abovementioned allegation directly contradicts her previous allegations that Mr Fitchat's surveillance cameras are pointed directly at various parts of her property and that Mr Fitchat is invading her privacy.

67. Mrs Viljoen is to please clarify whether her standpoint is that Mr Fitchat's surveillance cameras are pointing towards her property or not.

As far as the law goes in this regard, under my right to privacy in the Human Rights Act.

Article 8 of the Act entitled "The Right to Respect for Private and Family Life, Home and Correspondence" means that the home owner of #91 is likely breaking the law.

68. The abovementioned act appears to be a British law which relates to government interference in private lives, and is not applicable to this application.

Furthermore, should he be filming either our movements or audio, he would also be contravening our Protection of Personal Information which is governed by POPIA.

69. Mr Fitchat denies these allegations, and Mrs Viljoen is put to the proof thereof.

70. Mr Fitchat queries the real reason behind Mrs Viljoen's and his other neighbours' invasive questions and accusations regarding the technical details of his surveillance cameras.

71. Mr Fitchat is concerned that this is an attempt by someone who is riling up Mr Fitchat's neighbours against him to circumvent his security.

**EXERPT FROM REPLY OF THE KLEINBRON ESTATE MANAGER:**

Tydens die onlangse Trustee vergadering op Maandag 14 Februarie 2022 is die klagtes tesame met die voorgelegde verklarings van verskeie eienaars deeglik deur die Trustees bespreek en oorweeg. In aanloop tot die vergadering was daar konsultasie met verskeie munisipale departemente, Wetstoepassing en regsgeleerdes.

Hiermee die uittreksel van die notule van die vergadering soos op 14 Februarie 2022:

Die Trustees het na 'n lang indringende gesprek besluit dat daar geen bewyse is wat daarop dui dat Mnr. Fitchat enige reëls van die Landgoed oortree het nie.

72. After consulting with various municipal departments, law enforcement and legal advisors, the Kleinbron Estate manager and trustees found that Mr Fitchat's surveillance cameras do not transgress any estate rules.

73. Mrs Fitchat queries why Mrs Viljoen continues to insist that Mr Fitchat's surveillance cameras are infringing on her rights, after receiving the abovementioned reply from the Kleinbron Estate manager.

74. Mr Fitchat's surveillance cameras will not be removed.

You are welcome to contact me for any further information.

Kind regards,

Theo Fitchat

[sent electronically and thus unsigned]

## Addendum A



PO Box 2000, Bellville, 7535  
Tel: 021 982 0086  
info@kleinbronestate.co.za

[www.kleinbronestate.co.za](http://www.kleinbronestate.co.za)

Dear resident,

The final investigation report has been received Monday and discussed at a Trustee meeting Monday evening.

The break in at the house of one of our Residents was caused by 3 suspects. The evidence available shows that the suspects entered the Estate via Villa Palazzo. They have managed to circumvent the electric fence by dislodging wires and creating an entrance point. They were captured both on private video cameras as well as the estates video cameras. The suspects spend +/- 90 minutes on the estate and video footage shows that they enter and exit from the same area.

The areas that border neighbouring complexes did not have earth loops before since this was viewed as low-risk areas. Since the incident all areas not fitted with earth loops have been fitted with earth loops, thus enhancing the security and minimising the probability of a similar incident.

All patrolling schedules have been amended and changed to ensure that patrol patterns are not easily recognised. The number of patrols was also increased by having multiple guards doing patrols on various routes simultaneously. This further enhances the security on the estate.

The trustees are currently in the process of investigating a further option to enhance the security, and this will include a security risk assessment.

*We want to remind the residents of the following security procedures:*

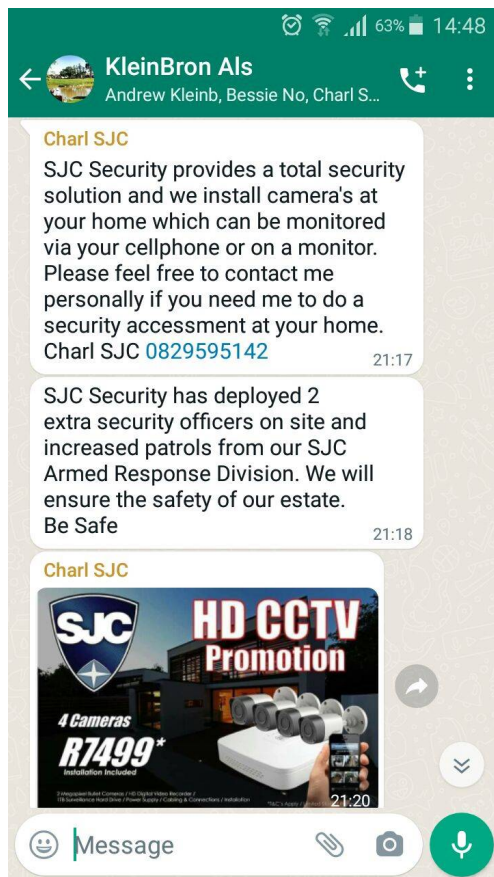
- 1. All contractors are signed into the estate.*
- 2. All contractors are signed out of the estate.*
- 3. Building sites are checked before shift change in the evenings to ensure all contractors have left.*
- 4. Fences are checked twice daily.*
- 5. Backup systems are in place should we experience loadshedding.*
- 6. Armed response is automatically displaced to all alarms.*
- 7. Besides our own onsite vehicle, we have 4 additional patrols daily on the estate by armed response vehicles.*
- 8. The site is also visited 4x daily by inspectors to ensure the guards are complying to the SOP's.*
- 9. Ad hoc "blind tests" by third parties get carried out regularly to check and monitor the guard's responses to possible threats, and to ensure training standards.*
- 10. Our guards are trained in basic firefighting and first aid.*

**PLEASE SAVE THE GUARDS CELL NUMBER – 061-306 7986 - TO USE DURING AN EMERGENCY IN CASE OF LOADSHEDDING WHEN LANDLINES ARE NOT OPERATIONAL.**

When residents see suspicious behaviour or suspect that there could be a possible security risk, please report it immediately to the guards. Also keep the office informed by emailing [info@kleinbronestate.co.za](mailto:info@kleinbronestate.co.za)

We urge residents to take charge of their personal security and ensure that their private residence and properties are secured.

## Addendum B



## Addendum C

28/4/21, 08:08 AM

Kleinbron Security Notice

### Kleinbron Security Notice

**IN** info@kleinbronestate.co.za  
Wed, 28 Apr 2021 8:08:49 AM +0200  
To "Theo Fitchat" <theo@cluedapp.co.za>

Tags 

Sent by bounce@mg.comb-communications.com

Security  TLS [Learn more](#)

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Display now • External Images are not displayed

Dear Resident,

The HOA management wish to inform you of an attempted breach at Kleinbron Estate in the early hours of Saturday morning, 24 April 2021 @ 04H23.

The attempted breach occurred behind Sasol Garage & The Mews.

The perpetrator cut five wires on the fence, and in doing so, set off the alarms at the guardhouse and at SJC Security control room.

Our guards responded immediately, and SJC Armed Response was also dispatched.

All indications are that no one managed to enter the estate.

The HOA trustees once again remind residents that they are responsible for their own security at their residence and therefore urge residents to ensure that their property is secured.

The current upgrade of the fence is ongoing. Earth loops along the perimeter bordering open spaces have been completed, and the next phase that entails additional zones is underway.

Kind regards

HOA Office

## Addendum D

