

DISPUTE TO BE HEARD BY THE COMMUNITY SCHEMES OMBUD SERVICE

Reference Number: **CSOS 8440/WC/21**

Application for dispute resolution in the matter between:

Marine Franken

APPLICANT

AND

Theo Fitchat

RESPONDENT

MARINE FRANKEN RESPONDING STATEMENT

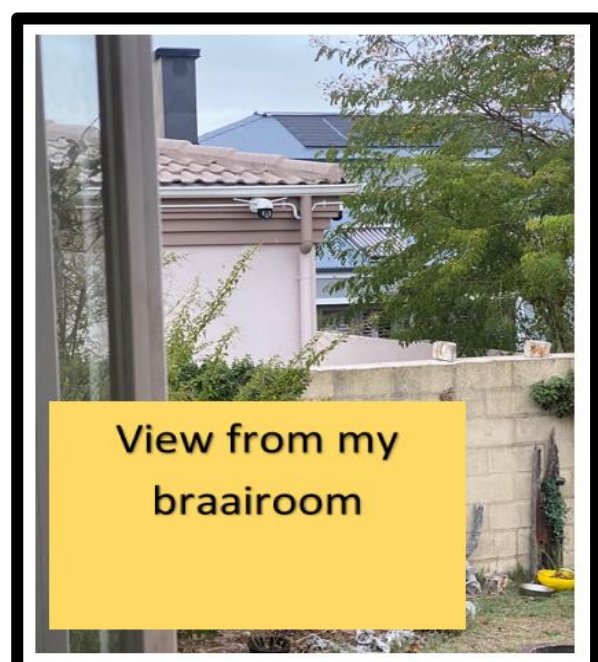
Please take note of the following:

1. We have blocked Mr. Fitchat comments/response and answer each point individually for ease of reference.
2. We request that the following cases be merged since they all pertain to the same complaint but from different residents(neighbours), CSOS-67/WC/22 AND CSOS 8440 WC 21 S43 AND CSOS 8440/WC/21.
3. Further we request that this case be directly referred to Adjudication due to the history of this dispute being:
 - a. Unfound complaints from the respondent that he has been assaulted by Mr Franken and his guests
 - b. We are aware of complaints where Mr Fitchat threaten other residents with a weapon/gun.
 - c. He has made several written defamatory remarks to neighbours and residents about us.
 - d. We wish to avoid any further emotional trauma by being forced to face him.

Herewith our reply to Mr Fitchet's response

1. The allegations in Mrs Franken's complaint are denied by Mr Fitchat.

Franken response: We did not make any allegations, **we stated the facts** that he installed cctv cameras around his house. I don't know how he can deny that, see the proof of the cameras pointing directly into our garden and bedrooms.

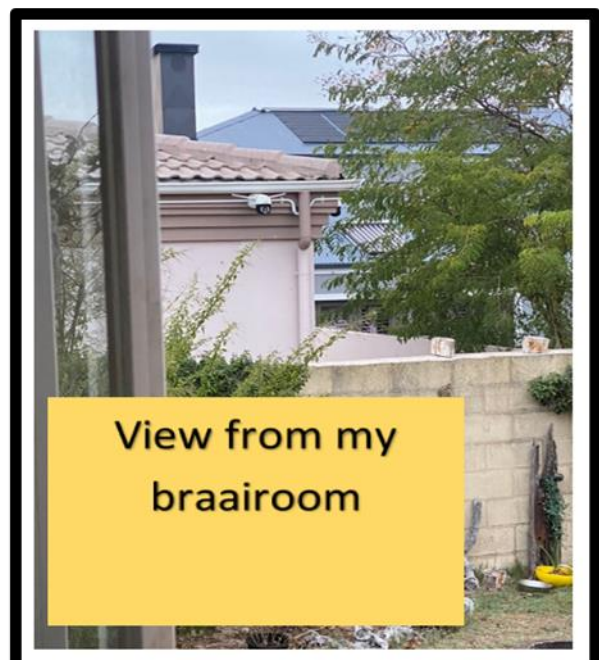


2. Mrs Franken's complaint against Mr Fitchat is the same as Mrs Johnson's complaint (CSOS 7648/WC/21, 24 February 2022). Neither complaint is supported by evidence.

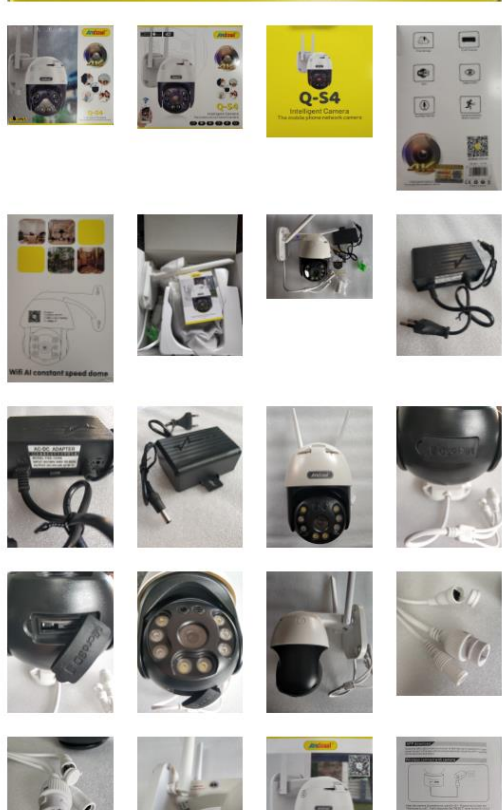
Franken Response –The photos (attached A1 and A2) as above are proof of some of the cameras installed, and support this dispute. The number of cameras installed are in excess of 10 cameras. I also attached a video as more proof of the cameras pointing to the Franken property (Attached **V1** (Franken backyard and **V2** Franken Frontyard)

3. Mr Fitchat's surveillance cameras do not infringe on Mrs Franken's or her children's right to privacy.

Franken Response – The cameras are directly pointed to the property and house of Mrs Franken, refer to attached photos and videos. The same goes for the various neighbours whom have also lodge complaints to CSOS. (Case numbers of all the complaints filed CSOS-67/WC/22 AND CSOS 8440 WC 21 S43 AND CSOS 8440/WC/21)



4. Mr Fitchat's surveillance cameras are not capable of moving 360 degrees. They have a PTZ (pan tilt zoom) function. Static cameras can be moved manually, and do not provide more protection against privacy infringement than PTZ cameras.



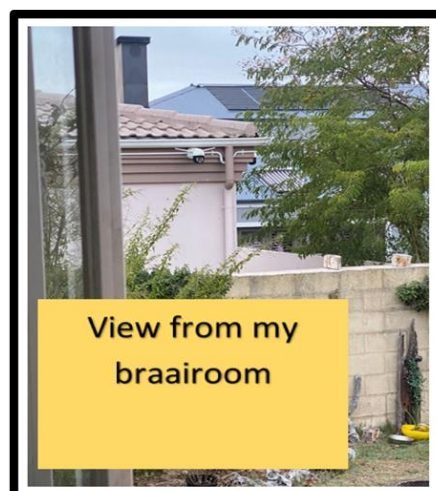
ANDOWL Q-S4 AI Wifi Outdoor Constant Speed Dome IP PTZ Camera - with Mobile App support, Remote viewing (10003444)

Description
 Waterproof Wireless IP Camera WiFi 4K 1080P with Andowl Q-S4 Motion Detector
 Waterproof wireless WiFi 4K recording camera that connects directly to your mobile phone, computer or tablet via a CareCam application.
 The Q-S4 Intelligent Camera 4K has the ability to connect to the internet via wifi. Its connection possibilities are huge thanks to its 2 powerful antennas that allow incredible speeds of 100Mbps at unimpeded distances of up to 100 meters. The camera can be fully controlled and does not require any recorder and installation.
 It has a 3MP 3.6mm lens that records video in 4K resolution at 25fps. It is equipped with security systems such as motion detection that detects traffic by recording the incident and sending an alert to your mobile immediately.
 The Q-S4 Intelligent 4K wireless camera is a watchdog that will provide you with security 24 hours a day, to monitor your property wherever you are.
 It has a built-in recorder with the ability to insert a micro sd memory card up to 128 GB.

Characteristics:
 It has a human body motion sensor.
 It follows the movement and rotates quickly.
 1080P HD resolution to ensure extremely high definition images.
 It has an alarm system.
 The infrared sensor adjusts depending on the day or night helping the colors and images to be sharp.
 Clear two-way conversation.
 It can control horizontal rotation 355 degrees and 90 degrees vertically.
 It has two 5DB high bandwidth antennas for wireless connection.
 Compatible with iOS and Android.
 Watch and manage everything comfortably from your mobile phone screen!
 It is waterproof with IP 65 certification and ideal for outdoor conditions.

What's in the box:
 1 x Camera
 1 x Power adapter

Franken Response – The various photos and video clearly shows that the cameras are moving, and not static. Mr Fitchat, in his own words admit that the cameras can be moved.(see point 4 above where he admit PTZ functions) – The specifications of this brand of camera is listed above, stipulating that it can rotate and has 2way conversation ability. Link to the specifications of the camera <https://baileyselectronics.co.za/product/andowl-q-s4-wifi-ip-smart-camera/>



The picture on the right clearly shows that the camera is now pointing the other way and not to our property as per Friday, this confirms that the cameras can be moved around.

5. The purpose of Mr Fitchat's surveillance cameras are for securing his property.

Franken Response – We had no problem initially when he installed the cameras (even after we discovered that he installed it without permission from the HOA) as it was not directly showing into our front and backyard. We were informed that the cameras cannot move. On various occasions, we have seen that the cameras are in fact rotating. The camera also have Audio Input: Built-in Microphone and Audio output: Built-in speaker. During a power failure/loadshedding, the cameras are making noises that is disturbing and especially at night it tends to frighten the children.

6. Mr Fitchat's family has been harassed, and his house vandalised, by occupants of Mrs Franken's house since 2020 when she moved into the house next to him.

Franken Response – The above statement is not true, We are not aware of any complaints lodged by Mr Fitchat. We deny strongly and seeking legal advice on these defamatory and far fetched statements

7. The house of another resident of the estate in which Mr Fitchat and Mrs Franken live was recently burglarised. Mr Fitchat is concerned that his house may also be broken into if his surveillance cameras are removed.

Franken Response – Even though we do not mind surveillance cameras, it needs to be mentioned that the theft Mr Fitchat refers to took place several months after he installed his cameras. It is totally disingenuous of Mr Fitchat to install cameras the beginning of January 2022 (first complaints was received on 17 January by the Kleinbron Estate management Attachment E1), and then used an incident that occur on 1 March 2022 as justification. We want to confirm again that we are not against security cameras as such, but then it should be compliant to local and government rules and regulations, and should not impede on our right to privacy, both by video and voice surveillance.

8. Mrs Franken has in any case indicated that she will be relocating to a new house, so Mr Fitchat's surveillance cameras will soon no longer be a problem for her.

Franken Response – Again Mr Fitchet is making a statement which is not true. We have no intension of re-locating.

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

Franken Response – We never gave Mr Fitchet permission to do surveillance of our property (back and front yard), neither did we give him permission to do surveillance of the inside of our house (inclusive of our and our children's rooms). Attachment R1 & R2

He never obtained permission from the Kleinbron Estate HOA for the installation of PTZ cameras. We demand that he remove the cameras with immediate effect, as it has proven more than once, that these cameras can listen to our conversations, and he utilize them to invade our privacy.

