

Dear CSOS,

Please see below my final submission regarding Mrs Franken's application.

I understand that I am not supposed to include new evidence in this submission, but Mrs Franken included new evidence in her reply to my reply, which I have not had the opportunity to counter with my own evidence.

She has also made unsubstantiated claims in her verbal arguments at the conciliation meeting which I would also like to counter with evidence.

The evidence I include is only relevant to issues that have already been raised in this application.

If my evidence is still not allowed, kindly disregard it.

Also, just to clarify, I have not had any legal assistance in preparing my CSOS submissions. My wife and I are currently both enrolled as LLB students and are studying to become attorneys.

Contents

1. SUMMARY	4
2. RESPONSE TO MRS FRANKEN’S WRITTEN SUBMISSION OF 9 MAY 2022 IN RESPONSE TO MY REPLY	15
2.1 Cameras pointed at Mrs Franken’s house.....	15
2.2 Cameras turned towards Mrs Franken’s house and amount of cameras.....	18
2.3. Privacy invasion	19
2.4. Camera specifications	19
2.5. Camera complaints	20
2.6. Harassment and vandalism	20
2.7. Burglary in Kleinbron Estate	20
2.8. Mrs Franken relocating	21
2.9. Demand for the removal of cameras	21
3. RESPONSE TO MRS FRANKEN’S VERBAL ARGUMENTS AT THE CONCILIATION MEETING OF 9 JUNE 2022	21
3.1. RE: Mrs Franken’s allegation that my cameras are recording her daughter’s bedroom	21
3.2 RE: Mrs Franken’s claim that they are people who keep their doors and windows open	21
3.3 RE: Mrs Franken’s allegation that I am recording her back yard.....	24
3.4 RE: Mrs Franken’s claim that I should have consulted her before installing CCTV cameras	24
3.5 RE: Mrs Franken’s claim that she has spent over R1 000 to increase the privacy in her front yard with trees and pot plants	24
3.6 RE: Mrs Franken’s claim that Kleinbron Estate will not allow her to increase her boundary walls’ height	38
3.7 RE: Mrs Franken’s claim that she asked me directly for permission to have a disco party	42
3.8 RE: Mrs Franken’s request for me to lower my cameras	43
3.9 RE: Kleinbron Estate’s Involvement with my cameras.....	43
3.9.1 RE: “CCTV installations are discouraged...”	54

3.9.2 RE: "...but will be permitted under the following circumstances:"	55
3.9.3 RE: "16.1 All installations must be registered with the HOA Office."	55
3.9.4 RE: "16.2 Cameras must be installed in a way that they do not cover/view any areas outside the boundaries of the property."	56
3.9.5 RE: "16.3 Cameras with PTZ facilities are not permitted."	57
3.9.6 RE: "16.4 Cameras with bi-directional communication are not permitted."	59
4. OTHER RELEVANT LAWS.....	60
4.1 Right to Equality	60
4.2 Right to Human Dignity	61
4.3 Right to Security of Person.....	61
4.4 Right to Privacy.....	61
4.5 Children's Rights	62
4.6 City of Cape Town Policy	62
4.7 Limitation of Rights.....	63
4.8 Right to Property	64
5. REAL ESTATE HARASSMENT	64
6. REQUEST FOR ADJUDICATOR TO DO A SITE VISIT	69

1. SUMMARY

Mrs Franken is my next-door neighbour in Kleinbron Estate and she has lodged a complaint at CSOS alleging that my CCTV cameras are invading her privacy.

My cameras have a PTZ (pan, tilt, zoom) function, which means I am able to change their angle from inside my house.

My cameras are to ensure the safety of my property and they are turned towards my property, except for where they are able to see some of the publicly visible areas in front of my house.

My cameras are also able to record audio, but this function is switched off. Even if they were switched on, they would not be able to hear audio outside the boundaries of my property.

Mrs Franken is firstly attempting to rely on Kleinbron Estate's new HOA Rules (Home Owner's Association Rules) which do not permit cameras with PTZ or audio capabilities.

Please see **Addendum 01 - 2022.05.20 Kleinbron Estate HOA Rules**

When I installed my cameras there were no HOA Rules regarding CCTV installations, and there were also no rules indicating that I had to obtain permission to install them.

Please see **Addendum 02 - 2015.09.07 Kleinbron Estate HOA Rules**

Despite me not having had to ask for permission, I did inform both the Kleinbron Estate manager and the owner of SJC Security, who manages the estate's security, that I was going to install CCTV cameras, and I also asked them to be present during the installation.

Neither Kleinbron Estate nor SJC Security replied, and they also did not indicate that I needed permission to install the cameras. Neither were present when I installed the cameras.

Please see **Addendum 03 - 2022.01.14 Email with Estate Manager**

Please see **Addendum 04 - 2022.01.20 Whatsapp with SJC Security's Owner**

I started installing my cameras on 15 January 2022.

After apparently numerous complaints to the Kleinbron Estate manager from various residents regarding my cameras, Kleinbron Estate held a trustee meeting on 14 February 2022. After having consulted with various municipal departments, law enforcement and legal advisors, they found that I was not transgressing any of the estate's rules.

Please see **Addendum 05 - 2022.03.23 CSOS M.Johnson Estate Manager Email**

The new HOA Rules which do not permit PTZ cameras with audio were put into effect on 20 May 2022, which was four months after I installed my cameras.

The Kleinbron Estate Constitution indicates that new HOA Rules are not retroactively enforceable, so their new rule that my kind of cameras are not permitted is not applicable to me.

36. "...no regulation made by the Association in general meeting shall invalidate any prior act of the Trustee Committee which would have been valid if such regulation had not been made."

Kleinbron Estate Constitution, pg. 18

Please see **Addendum 06 - Kleinbron Estate Constitution**

I have received no indication from Kleinbron Estate that I am in breach of their new rules. Surely if my cameras were causing me to be in breach, they would have contacted me and taken the relevant steps to ensure compliance.

Furthermore, if I were in breach, which I am not, it is Kleinbron Estate's responsibility to ensure that I am compliant, not Mrs Franken's.

Therefore, Mrs Franken cannot rely on the new HOA Rules regarding my cameras.

Mrs Franken is secondly attempting to accuse me of invading her right to privacy.

Mrs Franken's initial complaint to CSOS does not include any photographs of my cameras that were turned towards her property.

However, her reply to my reply, which was sent six weeks after her initial application, includes photographs and videos of two of my cameras that were turned towards her property: one towards her front yard, and one towards her back yard.

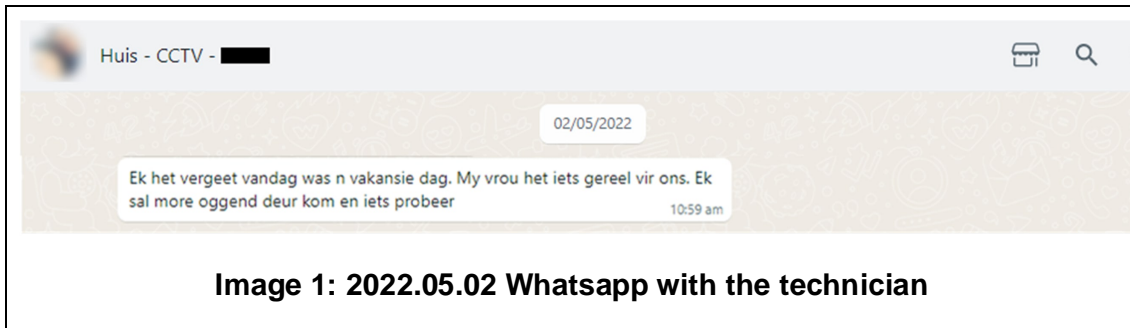
Those photographs and videos were taken about five weeks after her initial application to CSOS.

I had a technician work on my cameras in the week that Mrs Franken took the photographs, of which I provide evidence (**Images 1-7**), and his entry and exit times can also be independently verified with Kleinbron Estate's records.

The technician switched off the cameras that he was working on at the time, and when he replaced some of the cameras on the walls he seems to have inadvertently turned the cameras to face random directions instead of towards my house.

Because the cameras were not switched on at the time, we were not even aware of the fact that they were turned towards Mrs Franken's house.

As soon as the cameras were switched on again, they were turned to face their original positions again, which was towards my yard, in order to ensure Mrs Franken's privacy, and which is why Mrs Franken indicates in her last photograph that the cameras had been turned back.



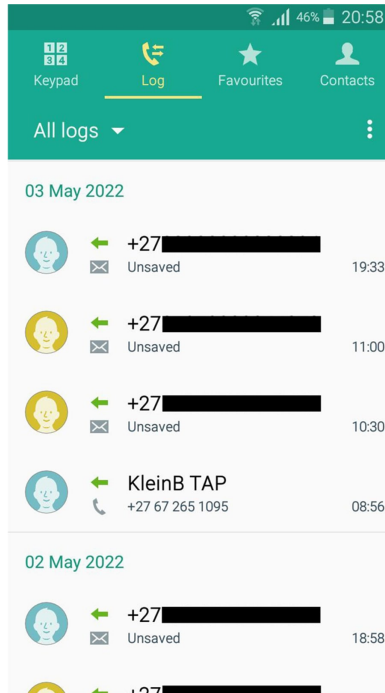


Image 2: 2022.05.03 Call from SJC Security to allow the technician in



Image 3: 2022.05.03 Whatsapp with the technician

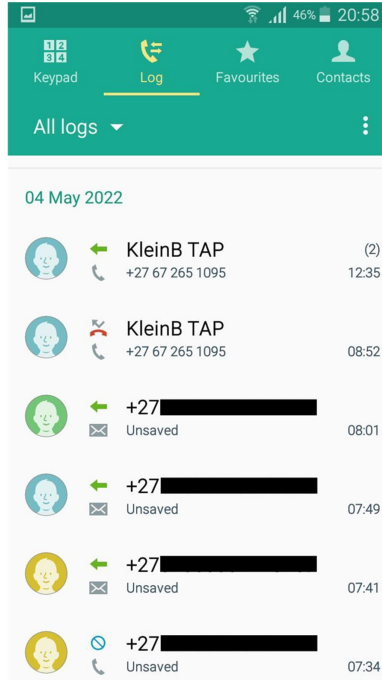


Image 4: 2022.05.04 Call from SJC Security to allow the technician in

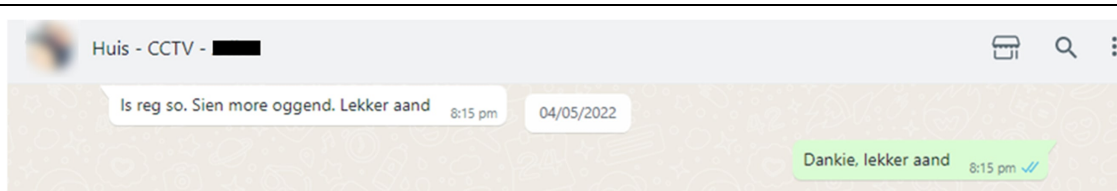


Image 5: 2022.05.04 Whatsapp with the technician

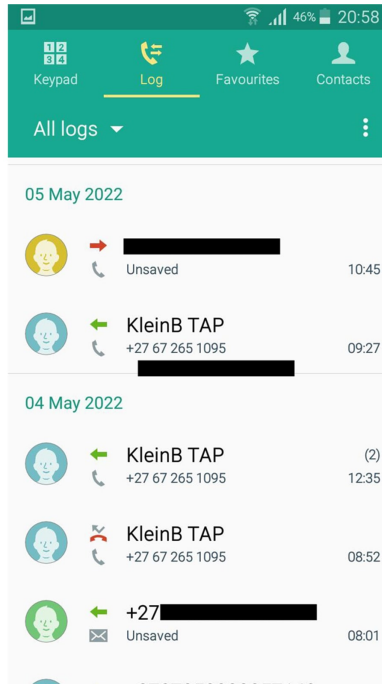


Image 6: 2022.05.05 Call from SJC Security to allow the technician in

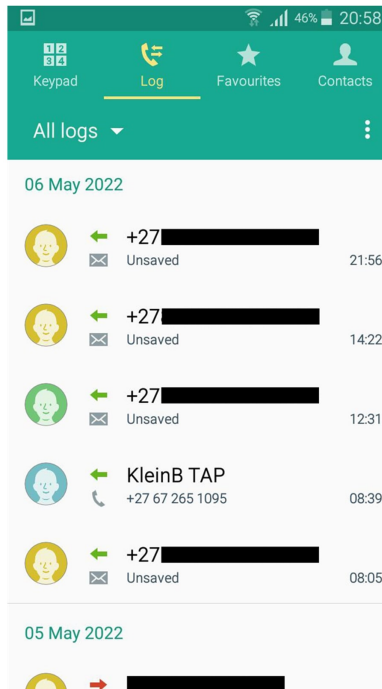


Image 7: 2022.05.06 Call from SJC Security to allow the technician in

Regarding Mrs Franken's complaint that one of the cameras in the front of my house is recording the publicly visible area in front of her house

The camera that Mrs Franken includes in her video was switched off when she recorded the video, and the technician had inadvertently turned it.

The cameras in my front yard only record the publicly visible areas around my house for surveillance purposes and they are not "pointed" at anyone's house.

The most recent legal precedent and case law that I was able to find that is relevant to this complaint is *Fearn and Ors v Board of Trustees of the Tate Gallery* which was heard in the England and Wales High Court. The verdict was appealed in the Supreme Court, but the appeal was dismissed.

According to the Law of Evidence Amendment Act, 1988,

1. (1) Any court may take judicial notice of the law of a foreign state [...]

Please see the following links for the full judgement and the appeal:

<https://www.bailii.org/ew/cases/EWHC/Ch/2019/246.html>

<https://www.bailii.org/ew/cases/EWCA/Civ/2020/104.html>

Fearn and Ors v Board of Trustees of the Tate Gallery involved the owners of some flats which neighbour the Tate Gallery on the South Bank in London.

The Tate Gallery built a 360-degree viewing platform whose panoramic view included the general living areas of the Claimants' flat interiors.

Many visitors took photographs and videos which included the insides of the Claimants' flats, and posted them on social media.

The Claimants felt that their privacy was being invaded, and they asked the Court to order the Tate Gallery to prevent members of the public and others from "observing" the publicly visible areas of their flats to ensure their privacy.

The Court found in favour of the Tate Gallery and indicated that the mere viewing of a neighbouring property was not enough for a nuisance claim to succeed.

The intended use of the viewing gallery was to view, and not to invade privacy, and the Claimants should have implemented measures to ensure their own privacy.

Similarly, the intended use of my CCTV cameras is also to view and not to invade privacy.

The Judge found that even though individuals have a reasonable expectation of privacy inside their homes, the Claimants had engaged in a self-induced exposure to the outside world where there was no legitimate expectation of privacy.

People in publicly visible areas, such as those in front of my house, do not have a legitimate expectation of privacy.

I copy relevant parts of the judgement below.

It can hardly be disputed that a person has a reasonable expectation of privacy in relation to much of what occurs in the home and in relation to the home itself.

Not all overlooking becomes a nuisance. Whether anything is an invasion of privacy depends on whether, and to what extent, there is a legitimate expectation of privacy.

Some remedial steps could be taken. There are several.

(a) The owners could lower their solar blinds. [...]

(b) The owners could install privacy film. [...]

(c) They could install net curtains. [...]

(d) At least one occupant has put some medium height plants in the winter gardens. As a matter of screening they are not hugely effective, and taller plants could restore some privacy. However, the other three measures are the significant ones which fall for consideration.

The victim of excessive dust would not be expected to put up additional sealing of doors and windows; the victim of excessive noise would not be expected to buy earplugs. However, privacy is a bit different. Susceptibilities and tastes differ, and in recognition of the fact that privacy might sometimes require to be enhanced it has

become acceptable to expect those wishing to enhance it to protect their own interests. I refer, for example, to net curtains. In the present case, if the occupiers find matters too intrusive they can take at least one of the measures referred to above. It will, of course, detract from their living conditions, but not to an unacceptable degree. Looking at the overall balance which has to be achieved, the availability and reasonableness of such measures is another reason why I consider there to be no nuisance in this case.

Mr Fetherstonhaugh sought to meet the claimants' objections to having to take these steps by saying that what they were really seeking was a right to a view, which is a right unknown to the law. I do not consider that to be a relevant point. There are authorities which indicate that a right to a view, as an easement and absent agreement, is not a right known to the law, but that is not what the claimants are seeking. It is true that they want to be able to maintain an unrestricted view from their windows (without compromising their privacy) but they do not rely on a legal right to a view. They are saying they should not have to obstruct their view to protect themselves from an inwards intrusion by others.

I should mention one further factor relied on by at least two of the claimants, and that is the effect of there being **children** in the flats. As appears above, some of the occupants will not allow their children or grandchildren to be exposed in the flats. Mr Weekes sought to pray in aid the particular need to protect children. He relied on *Weller v Associated Newspapers* [2016] 1 WLR 1541. While I do not ignore that factor, I do not think that it has much weight in the calculation I have to make or the balance I have to strike. The children do not have their own privacy claim under nuisance because they are not the owners of the land. Their privacy interests are part of the greater privacy interests of the parent owners, but do not add anything substantial to the latter's significant interests. The viewing gallery has not been constructed, and is not used, deliberately so as to give a view of children, and children would not necessarily be on view in the flats all the time though it is, of course, a perfectly "normal" activity to bring up children in a residential area. I am

far from sure that every parent would feel quite the same level of sensitivity (though I respect the views of those who do), and if there is felt to be a danger then the remedial steps which are open to the parents and grandparents (identified above) are steps which they could reasonably be expected to take.

The assessment that I have carried out is the usual one applicable to nuisance, even if privacy protection now arises via the application of Article 8. That Article generally requires an assessment (among other things) of whether the claimant has a reasonable expectation of privacy. As stated elsewhere in this judgment, in my view an assessment of that nature would be almost identical to the balancing exercise between the defendant's use of the land in the locale in question and the sort of give and take that would be reasonable for the claimant. It would arrive at the same result. The sort of factors which mean that the claimants cannot claim that the use of the viewing gallery is a nuisance mean that they do not have a reasonable expectation of privacy, if that is relevant. I need say no more about it than that.

Subsequent UK cases where individuals complained about a neighbour's CCTV viewing the publicly visible areas in front of their houses were bound by the above precedent, and the CCTVs were allowed.

Since all complaints against me thus far have been that "I record children", I would just like to point out that the POPI Act makes express provision for the recording of children if the recording is "necessary for the establishment, exercise or defence of a right or obligation in law", such as the safety of my property, and to gather evidence of crime.

Part C

Processing of personal information of children

25

Prohibition on processing personal information of children

34. A responsible party may, subject to section 35, not process personal information concerning a child.

General authorisation concerning personal information of children

35. (1) The prohibition on processing personal information of children, as referred to in section 34, does not apply if the processing is—

- (a) carried out with the prior consent of a competent person;
- (b) necessary for the establishment, exercise or defence of a right or obligation in law;

Image 1: Excerpt from the Protection of Personal Information Act, 2013

Regarding Mrs Franken's claim that I am recording her back yard because my cameras were turned towards her house on 6 May 2022

My cameras were not switched on at the time that they were turned towards Mrs Franken's house, and Mrs Franken has provided no evidence that they were.

According to the *Civil Proceedings Evidence Act 25 of 1965*,

2. No evidence as to any fact, matter or thing which is irrelevant or immaterial and cannot conduce to prove or disprove any point or fact in issue shall be admissible.

I contend that the photographs and videos that Mrs Franken submitted in her application of my cameras that are pointed towards her house are irrelevant and immaterial to her claim that my cameras were invading her privacy, since those photographs and videos are not able to prove that my cameras were recording and invading her privacy at the time.

Therefore, Mrs Franken's photographs and videos are inadmissible as evidence.

Regarding Mrs Franken's allegation that I am recording their conversations

My cameras' audio is switched off, and even if they were on, they would not be able to hear anything outside the boundaries of my property.

Mrs Franken's only "evidence" that my cameras are recording her conversations is her allegation that they are, which is not admissible as evidence.

He who alleges must prove.

2. RESPONSE TO MRS FRANKEN'S WRITTEN SUBMISSION OF 9 MAY 2022 IN RESPONSE TO MY REPLY

2.1 Cameras pointed at Mrs Franken's house

In Mrs Franken's reply she included photographs of two of my cameras that were turned towards her house.

Mrs Franken submitted her reply on Monday, 9 May 2022, and indicates that the cameras were turned towards her house "on Friday", but that after Friday they were turned back, away from her house again.

I had some technical issues with my cameras, so I had a technician work on them from Tuesday, 3 May 2022, to Friday, 6 May 2022, with Friday, 6 May 2022 assumedly being the Friday that Mrs Franken is referring to.

Please see **Images 1-7** above of my Whatsapps with the technician as well as proof of the call from SJC Security that was made to me to allow the technician in (called "Kleinbron TAP" in the screenshot).

The adjudicator can also independently verify the technician's entry and exit times with Kleinbron Estate.

On the four days that the technician was working on my cameras, his car was parked outside my house.

Before our relationship with Mrs Franken became strained, my wife used to visit the Frankens at their house during the day, and Mrs Franken seemed to work from home a lot.

Mr Franken was also usually at home in his pyjamas.

The technician worked both inside and outside my house, and at times he went around the outside of my house with a ladder to access the cameras and to work on them.

As mentioned before, the cameras were switched off at the time that they were turned towards Mrs Franken's house.

As soon as the cameras were switched on again, they were turned to face their original positions again, which was towards my property.

Mr and Mrs Franken would have been able to see that a technician was working on the cameras, and that the cameras were turned towards their house after he had reattached them to the wall.

It is common sense that when someone works on electrical items that their power must be switched off.

Furthermore, my cameras are relatively small, so if Mrs Franken had been able to see that some of the cameras were turned towards her house, she would surely have been able to see and hear the technician in my yard as well, who is a fully-grown adult male who is much larger than the cameras.

My cameras say "Welcome to use" when they are switched on.

Mrs Franken claims the sound frightens her children, so it is apparently loud enough for her to hear from her house, so she would have been able to hear that the cameras were switched on after the technician had worked on them, further indicating that they had been switched off when they were turned towards her house.

Mrs Franken has conveniently taken a photograph of the cameras when the technician was not present, and she is pretending that I had purposefully turned the cameras to her house to spy on her, when she knows that is not the case.

In the six months that I have had the cameras, the only photograph that Mrs Franken has of my cameras pointing towards her house were taken in the week that a technician was working on them.

Surely if my cameras have been pointing directly towards her house for the past six months she would have had many photographs of them, and she would have included them in her first submission to CSOS?

Mrs Franken complains that my cameras are PTZ, but if I had static cameras and a technician had worked on them and inadvertently turned them towards Mrs Franken's house after a technician had reattached them to the wall, the exact same situation would have occurred.

The fact that some of my cameras had been turned towards Mrs Franken's house had nothing to do with the fact that they are PTZ cameras.

In fact, the fact that they are PTZ cameras meant that as soon as they were switched on again, they could quickly and easily be turned to face away from Mrs Franken's property again.

The videos that Mrs Franken submitted do not show their metadata when they are downloaded, and I am also not sure at exactly what time the technician left every day. On some days he was only here for a few hours.

However, since the Kleinbron Estate manager was apparently at Mrs Franken's house when she took at least one of the videos that she submitted (Please see **Images 8 and 20**), the adjudicator can independently verify with the estate manager on what date and at what time he was asked by Mrs Franken to go to her house between 2 and 6 May 2022.

That date and time can then be compared with the times that the technician entered and exited the estate, which is information that Kleinbron Estate also has on record.

It would be interesting to see how soon after the technician exited the estate Mrs Franken called the estate manager.

It might also be worth checking Mr and Mrs Franken's entry and exit times from the estate on those days as well, to see if they had entered or exited the estate while the technician was at my house.

If they did, it would mean they would have been able to see his car outside my house, which means they would have known a technician was at my house, and that he had been working on my cameras, and that it had not been me who had turned the cameras towards their house.



Image 8: Screenshot of the video taken by Mrs Franken when the Kleinbron Estate manager was at her house

That being said, I apologise to Mrs Franken that I had not taken more care to check my cameras while the technician was working at my house.

If I ever have a technician work on my cameras again, I will try to be more careful to ensure that the cameras are not inadvertently turned directly towards Mrs Franken's house again.

Mrs Franken is to just keep in mind that I cannot sit and watch the cameras all the time, so if Mrs Franken notices they are turned directly towards her house, she is welcome to send me a photograph of the relevant camera or cameras on Whatsapp and I will rectify the situation.

2.2 Cameras turned towards Mrs Franken's house and amount of cameras

As mentioned in point 1, a technician worked on the cameras and they were not switched on at the time when they were turned towards Mrs Franken's house.

I am not aware of any law that states that I am not allowed to install more than 10 surveillance cameras on my property.

2.3. Privacy invasion

Please see points 1 and 2.

2.4. Camera specifications

I think it would probably have been more accurate for me to have stated that my cameras are unable to view 360 degrees, the reason being they are attached to a wall, so 180 degrees are automatically excluded from the area that they are able to view.

Mrs Franken includes a screenshot of my camera's specifications and she has highlighted, "*It has a built-in recorder with the ability to insert micro SD memory card up to 128 GB*". I am not sure what her complaint regarding this specification is, but I confirm that my cameras are recording video. The recorded information is not stored indefinitely. As soon as the recorder is full, it starts writing over the first information that was recorded.

Mrs Franken has highlighted, "*It follows the movement and rotates quickly*". That function is switched off. Mrs Franken will be able to see that my cameras do not move when people walk past them.

Mrs Franken has highlighted, "*Clear two-way conversation*". The audio function is switched off. When it is switched on it does not cover further than the boundaries of my property.

I have no interest in recording sounds outside my property unless they are purposefully being made to harass me, which is a crime, and which I am legally allowed to record. I will discuss this point in more detail further down.

Mrs Franken has highlighted, "*It can control horizontal rotation 355 degrees and 90 degrees vertically.*" Please see above response.

As I mentioned above, as soon as the cameras were switched on after the technician worked on them, they were turned away from Mrs Franken's property in order to ensure her privacy, which is why they are not facing her house anymore in the last photograph provided.

2.5. Camera complaints

The Kleinbron Estate HOA Rules that I received when I moved in in June 2019 was dated 7 September 2015, and they did not include any rules regarding CCTV cameras, or that I needed permission to install them.

Even though I did not need permission from the HOA, I did inform the estate manager and the owner of SJC Security, who is also a resident in Kleinbron Estate, that I was going to install CCTV cameras before I installed them, so they were aware of the installation.

They did not object or indicate that I needed permission to do so.

Please see **Addendum 03 - 2022.01.14 Email with Estate Manager**

Please see **Addendum 04 - 2022.01.20 Whatsapp with SJC Security's Owner**

Mrs Franken does not indicate who informed her that the cameras cannot move, but it was not me.

The cameras initially rotated once when they switched on after load shedding, and they said "Welcome to use". I did not know the cameras would do so when I bought them, but all the cameras are now on a UPS (uninterruptable power supply) and they stay on for the entire duration of load shedding. So, after load shedding they do not rotate once anymore and they also do not say "Welcome to use".

The fact that they say "Welcome to use" when they are switched on has nothing to do with whether their audio capabilities are switched on or off.

2.6. Harassment and vandalism

I stand by my statement and I look forward to seeing you in court.

2.7. Burglary in Kleinbron Estate

I did not say I installed cameras because of the burglary on 1 March 2022.

I said I installed cameras because my house was vandalised by, I suspect, Mrs Franken (in December 2021).

I installed the cameras in January 2022.

The burglary on 1 March 2022 was supporting evidence that there is crime elsewhere in the estate as well.

My cameras are compliant and are not invading anyone's privacy.

2.8. Mrs Franken relocating

Noted.

2.9. Demand for the removal of cameras

I am not doing surveillance of your property or of the inside of your house.

I am not sure how it is possible for me to have listened to any of your conversations through my cameras, since they are not able to pick up sound on your property, and also because the audio is switched off.

The adjudicator is welcome to do a site visit to verify this.

Mrs Franken indicates "that it has proven more than once, that these cameras can listen to our conversations" (sic) but she does not provide the proof that she claims exists.

Please provide evidence for your statement. You are making wild allegations which are simply not true.

3. RESPONSE TO MRS FRANKEN'S VERBAL ARGUMENTS AT THE CONCILIATION MEETING OF 9 JUNE 2022

3.1. RE: Mrs Franken's allegation that my cameras are recording her daughter's bedroom

As discussed above, the photographs of my cameras that were turned towards Mrs Franken's house were taken when a technician was working on them. The cameras were not switched on at the time.

If Mrs Franken is still concerned about her privacy, even though she does not need to be, there are many things that she can do to increase her privacy.

3.2 RE: Mrs Franken's claim that they are people who keep their doors and windows open

Mrs Franken indicated at the conciliation meeting that they are people who keep their doors and windows open (and I am assuming, by extension, their curtains and/or blinds).

Mrs Franken's daughter's window already has horizontal blinds (Please see **Image 9**), which are rolled down most of the time that I and my wife have noticed, since long before I had cameras installed. Her window is clearly visible from various parts of our property that we use a lot, so it is impossible not to notice her blinds.

The image below is a screenshot taken of one of the videos Mrs Franken submitted.

Mrs Franken's photographs and videos can also be accessed at the following Dropbox link:

https://www.dropbox.com/sh/vjmmiglb98d5gja/AAC_RWBenx-Kn5C-tovsaAvFa



Image 9: Mrs Franken's daughter's bedroom window with blinds partially rolled up

It is unclear why Mrs Franken is indicating that my cameras are recording the inside of her daughter's bedroom, when firstly, my cameras are turned away from her house, and secondly, her daughter's room has a privacy screen installed, and which she is apparently in the habit of using.

If Mrs Franken feels her daughter's blinds are insufficient to ensure her daughter's privacy, Mrs Franken can also install net curtains, frosting, or one-way reflective film. These are all relatively inexpensive common-sense solutions.

Mrs Franken's daughter is 9 years old, surely that is an age at which a child is able to know they must close their curtains when they get dressed.

Various rooms in my own house are also visible to the occupants of Mrs Franken's house and to the occupants of the two double-story houses next to my house.

Mrs Franken's house is built on a higher elevation than my house, so she has a very clear view of various parts of my property, including being able to look directly into one of my bathrooms, two bedrooms (Please see **Image 10**), and my living room/dining room area.



Image 10: Screenshot taken of one of Mrs Franken's video submissions

The bathroom has frosting on the window, we keep the two bedrooms' blinds closed, and we have put up net curtains in our living room/dining room area. We have also put up net curtains and frosting in some of the other rooms that our other neighbours can look into, or we keep the curtains closed.

I do not think that if we kept the blinds and curtains wide open that we would have had a reasonable expectation of privacy in those rooms.

We would have liked to open them, but our privacy is more important to us, so we have reasonably adapted to the situation.

We do not feel it is a completely unreasonable measure to keep our blinds and curtains closed.

In any living arrangement there is a measure of give and take with your neighbours, and one adapts to find the most reasonable and least disruptive solution.

3.3 RE: Mrs Franken's allegation that I am recording her back yard

I am not recording Mrs Franken's back yard.

3.4 RE: Mrs Franken's claim that I should have consulted her before installing CCTV cameras

Clearly it does not make sense for me to have consulted Mrs Franken before installing the cameras, firstly, because I am not legally obliged to do so, but also, it does not make sense to ask the person you suspect of vandalising your property, to approve the cameras you are installing in order to catch them vandalising your property.

3.5 RE: Mrs Franken's claim that she has spent over R1 000 to increase the privacy in her front yard with trees and pot plants

The large pot plant in Mrs Franken's front yard was placed there long before I installed cameras, and when I was still under the impression that we were on good terms with Mrs Franken.

Mrs Franken's pot plant is standing by her garage, and it only increases the privacy of a number of bricks in her driveway.

The trees that she has recently planted in her front yard appear to be saplings, and they are planted along a wall (Please see **Image 11**). Even if they were fully grown they would not significantly increase the privacy of her front yard at all.

There are also some new saplings planted in Mrs Franken's back yard near one of my cameras (Please see **Image 12**). The size of the saplings leaves much to be desired.

Surely buying two large, tall trees to plant between the cameras and her back yard that would actually increase her privacy would have cost the same as ten microscopic saplings that do not? (six in her back yard and four in her front yard).

Mrs Franken has indicated that her new saplings would take years to grow, so Mrs Franken has essentially not increased her privacy at all.



Image 11: New saplings in Mrs Franken's front yard



Image 12: New saplings in Mrs Franken's back yard

Mrs Franken has also indicated that she is concerned that I am audio recording her back yard, even though I am not. If she really was concerned about it, surely increasing

the height of her boundary wall would be more effective at blocking sound from her back yard than planting a few saplings.

Mrs Franken does not mention any other measures that she has taken to ensure her daughter's or her back yard's privacy.

If these were the only efforts that Mrs Franken has taken to ensure her privacy, they seem to be the effort of someone who has attempted to increase their privacy in the least effective way possible.

If Mrs Franken feels her privacy is being invaded now, why has she not implemented any effective measures to ensure her privacy now?

Why are the saplings that were planted in her back yard planted near the camera that is installed the furthest away from her daughter's bedroom window?

Why did she not prioritise placing something between her daughter's window and the camera nearest to her daughter's window?

Mrs Franken used to have some cactus plants in a white rectangular pot between two wooden blocks on the boundary wall, but she removed the pot some time ago, after my cameras were installed. The two wooden blocks are still on the boundary wall (Please see **Image 13**).



Image 13: Position of a pot plant that Mrs Franken has removed

Even though that particular pot plant would probably not have been tall enough to stand between that camera and Mrs Franken's daughter's window, it means Mrs Franken had placed pot plants on the boundary wall before, so it is not as though she did not know it was an option for her.

Mrs Franken could easily have obtained a larger pot plant or something else and placed it on the boundary wall between the camera and her daughter's bedroom window.

I know it is not much, but one of the plants in Mrs Franken's back yard is tall enough to cause one of the cameras to not be visible in at least a part of Mrs Franken's yard (Please see **Image 14**).

I have seen plants and trees that are taller than that being sold at Stodels.



Image 14: Plant between one camera and some of Mrs Franken's back yard

I find it curious that in Mrs Franken's one video the blinds in Mrs Franken's bedroom and in her daughter's bedroom are open nearly all the way, but the blinds in her living room are rolled down and are turned open at an angle (Please see **Images 15-18**).

It is clear from her video that it is nearly impossible to see anything inside her living room when her blinds are like that, and Mrs Franken was standing right by the window when she took the video.

The blinds in her daughter's room are also rolled up, but not all the way. You can see in the video that where her blinds are visible it is more difficult to see into her room (**Image 17**).

Surely it will be even more difficult for a person or a camera far away on another property.

Why is Mrs Franken's living room blinds closed if they are people who keep their doors and windows open?

Also, why does Mrs Franken close her living room blinds, but open her bedroom and her daughter's bedroom blinds?

Why ensure her privacy in her living room but not in their bedrooms?



Image 15: Mrs Franken's main bedroom window with rolled up horizontal blinds visible (from inside)



Image 16: Mrs Franken's main bedroom window with rolled up horizontal blinds visible (from outside)

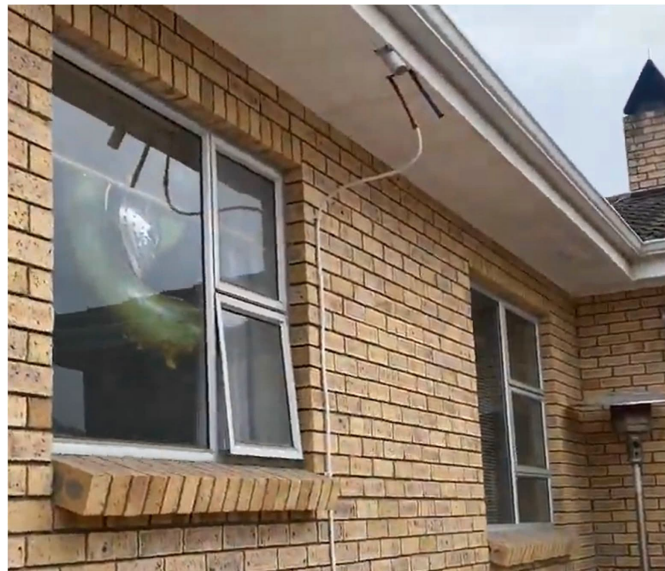


Image 17: Mrs Franken's daughter's bedroom window with rolled up horizontal blinds visible



Image 18: Mrs Franken's living room window with rolled down horizontal blinds

Mrs Franken claims to have spent over R1 000 on saplings and pot plants.

If Mrs Franken only had R1 000 available to spend on increasing her privacy, why has she chosen to use it to plant saplings in ineffective places?

Why has she not rather used the R1 000 to increase the privacy of her daughter's bedroom, since surely that should take priority if it really is her concern.

But on the other hand, her daughter already has a privacy measure in place in her bedroom, namely her blinds.

If Mrs Franken felt that her blinds were insufficient, the R1 000 would have been more than enough to buy additional net curtains, frosting, or reflective film.

If Mrs Franken had really believed that I was secretly recording her daughter's bedroom, the reasonable thing to have done would have been to increase her daughter's bedroom's privacy as soon as the cameras were installed.

Mrs Franken has apparently done absolutely nothing to increase her daughter's privacy in the past six months that my cameras have been installed.

If my cameras had been turned towards Mrs Franken's house all this time as she apparently alleges, the fact that my cameras have been installed for six months would

have meant that I have been recording her daughter's bedroom for the past six months, and Mrs Franken has not done anything about it.

Is that what a reasonable person does who is serious about their daughter's privacy? No, it isn't.

Does that make any sense? No, it doesn't.

Because Mrs Franken has not acted as a reasonable person would have done by actually increasing their daughter's bedroom's privacy, I contend that Mrs Franken knows that I am not recording her daughter, and that I do not have any inclination to do so.

Mrs Franken also further attempts to insinuate that I am a pedophile by saying her friends ask, "Why is he recording little 9-year old girls in your back yard?"

That is such a loaded question and, in fact, a veiled accusation.

Firstly, it is hearsay.

But secondly, if Mrs Franken's friends are asking it, it is because Mrs Franken has *told* them that I am recording little girls in her back yard. Which I am not.

Surely it is obvious that cameras that are not pointed towards you are not able to record you, so it does not make sense for Mrs Franken's friends to have said that.

Mrs Franken's friends have not reached that conclusion independently and without being influenced by her and Mr Tyrone Johnson, Mrs Franken's close friend and my other neighbour, due to his defamatory Whatsapp on the Kleinbron Whatsapp group in which he falsely claimed I recorded his child in a towel, and for which I am currently taking legal action against him.

Please see **Addendum 07 – 2022.01.10 KleinBron Als Whatsapp Group Post T.Johnson**

At the conciliation meeting Mrs Franken indicated that she wants to have splash parties for little girls in her back yard, but that she cannot do so because of my cameras.

Mrs Franken has a relatively large back yard. There are many places in her yard where she is unable to see my cameras, so why does she not just have her splash parties there?

If Mrs Franken is concerned that I may be recording her back yard, which I am not, why does she insist on having a splash party right in front of my cameras?

Why does she keep insisting I am recording her back yard when I am not, and making up emotional reasons for me to remove my cameras?

Why is the enjoyment of her property more important than my enjoyment of my property because it is safe?

Why does Mrs Franken not reassure her friends that she knows me and that I am not a pedophile and that I am not recording their children?

If Mrs Franken really thinks I am a pedophile who is recording little girls, why does she want to arrange splash parties for little girls in front of my cameras in order to expose little girls to me?

Mrs Franken has been complaining about my cameras to the Kleinbron Estate manager ever since January 2022, and she still has no evidence that I am doing what she is accusing me of.

Her photographs of when my cameras were turned towards her house are not proof that I am secretly recording "little girls".

I believe that Mrs Franken is doing this CSOS application herself since she is a woman and because women are more vulnerable than men, and are more often the victims of sexual crimes than men.

She has lodged the complaint against me rather than against my wife or against us both since men are more often the perpetrators, even though I am not the perpetrator.

It is obvious that if, for example, Mrs Franken's husband had complained to the Kleinbron Estate manager that my wife was recording him and his bedroom, his accusations would carry much less weight and have much less emotional appeal and shock factor than "that man is recording little girls".

A man complaining that a woman is recording him will be taken much less seriously.

The saplings that were planted in the Frankens' back yard were assumedly planted by Mr Franken.

Why do Mrs Franken's friends not ask, "Why is your neighbour recording Mr Franken?"

Or, "Why is his wife recording Mr Franken?"

Or even, "Why is his wife recording Mrs Franken?"

Why is it only me who is allegedly recording only little girls?

And why are there allegedly always only girls, and in particular so very many young little girls, on Mr and Mrs Franken's property, and in particular on Mr Franken's property?

Mrs Franken also claims my cameras also look into her and Mr Franken's bedroom.

Are there little girls in Mr Franken's bedroom?

What are they doing there?

If Mrs Franken's main allegation is that I am recording little girls, what kind of cameras can only record little girls?

I wasn't aware that such cameras existed, but I query how Mr and Mrs Franken know they exist.

I know I am being ridiculous, but I am doing it on purpose to show how ridiculous Mrs Franken's allegations against me are.

Claiming a man is "recording little girls" has unlimited emotional appeal and shock factor, but that is all that Mrs Franken has - emotional appeal and shock factor. Strawman arguments and lies.

With Mrs Franken's accusations she also insinuates that I am the only one who had any involvement in my cameras, but my wife was directly involved in our cameras from the beginning.

My wife was the one who tried to convince me to install CCTV cameras after two of Mr Franken's male guests attempted to assault me in front of my house in October 2021 while Mr Franken just stood there smirking with his arms folded.

In Mrs Franken's verbal testimony at the conciliation she indicated that she did not know what I was talking about and that I had mistaken "the man" for Mr Franken, but she sent me a Whatsapp on that very evening saying she didn't know what had happened between me and her guests, so she clearly knew who they were.

Please see **Addendum 08 - 2021.10.19 Whatsapps M.Franken and T.Fitchat**

I have attempted twice to get a protection order against Mrs Franken, but my applications were denied due to a lack of evidence.

Please see **Addendum 09 - 2021.10.27 Protection order application #1 denied**

Please see **Addendum 10 - 2022.01.21 Protection order application #2 denied**

I only decided to install CCTV cameras after our house was vandalised Christmas 2021.

My wife was the one who noticed the indentation in the ground next to our shared boundary wall with the Frankens, and she realised that someone had climbed over the wall in that exact place when our property was vandalised.

The vandal could not have climbed over our top gate, because the one that was installed there at the time made a lot of noise whenever it moved.

Our bottom boundary wall is on a very visible street corner, so it is unlikely that someone had climbed over there.

The only logical place that the vandal/s had come from was from one of our neighbours' properties.

The indentation in the ground next to our shared boundary wall with the Frankens' led us to believe the vandal had come from there.

We thought that the most likely person to have climbed over and vandalise our house was Mr Franken.

Why was only our house vandalised?

My wife was the one who decided where the cameras had to be installed on the walls in order to ensure our entire property would be covered.

My wife was the one who decided that 16 cameras were the correct amount to cover our entire property because of the shape, size and length of our house.

The cameras that Mrs Franken is complaining about and saying I am using to record her daughter's bedroom are the exact same cameras that my wife positioned there to record the boundary wall where we suspect Mr Franken had climbed over our wall to vandalise our property.

My wife also has the exact same access to viewing our camera footage as me.

Why is her name not mentioned even once anywhere in Mrs Franken's complaints?

Why is she not also being accused of recording "little girls"?

The answer is obvious.

Because I am a man.

Mrs Franken seems to be insinuating that I am sitting in a dark room in front of my CCTV footage the whole day with glazed eyes, just waiting to catch a glimpse of someone whose privacy I can invade.

It is ridiculous.

I have a postgraduate qualification and a full-time professional job and a family for whom I provide, and for whom I am the only breadwinner.

I am also studying towards my third degree, and I am paying for my wife to complete her fourth degree.

I am not the mentally unstable and aggressive psychiatric hospital escapee that Mrs Franken tries to make me out to be.

Even though I do not have any concrete evidence that Mrs Franken was the perpetrator in the vandalism of my house, her own words and actions reveal that she is not as innocent as she pretends to be.

Mrs Franken does not dispute that my house was vandalised, so she agrees that my house was vandalised.

Mrs Franken's response to our house having been vandalised is not the response of a reasonable (and innocent) person.

Mrs Franken's only response to our house being vandalised is to say that she can say with a clear conscience that she was not involved in the vandalism.

Even though we have a strained relationship with Mrs Franken, a reasonable and innocent neighbour would have been alarmed that a criminal had been in their back yard and had climbed over their shared boundary wall to vandalise their neighbours' property.

A reasonable and innocent (and empathetic) neighbour would have asked what had happened, and if we were ok. Mrs Franken has shown absolutely no empathy to the fact that our house had been vandalised at all.

A reasonable and innocent neighbour would have been worried about the safety of their own property.

A reasonable and innocent neighbour would have asked for details about the vandalism.

Mrs Franken did not do any of these.

A reasonable and innocent neighbour would want to ensure it does not happen again, and be relieved that a neighbour was installing CCTV cameras, because that would protect their own property from crime as well, even if their relationship with their neighbour was strained.

In general, criminals are much less likely to break into a house that is next to one with CCTV cameras.

A reasonable and innocent neighbour would also want to find out who had been in their back yard, and would want to ensure that it does not happen again.

But no, the important thing that we need to focus on here is that Mrs Franken cannot be expected to close her blinds.

A crime was committed in her back yard, but she wants to complain to CSOS that she wants to keep her doors and windows open and have privacy at the same time.

Why is she completely unconcerned about her and her family's safety, and more concerned about the inconvenience of sticking a piece of frosting on her daughter's window, which would take about 10 minutes?

Why is Mrs Franken not worried that a criminal had entered her property and walked around in her back yard past her doors and windows that she enjoys keeping open?

Why is it worse to have CCTV cameras on the wall to catch a criminal, than to have a criminal enter your house through your open doors and windows?

Why does Mrs Franken value her comfort and convenience more than her safety?

If Mrs Franken closes her windows for security, why? If the estate is secure and there are no criminals, why does she close her windows and reduce her comfort?

If Mrs Franken closes her windows for privacy, why does she take responsibility for her privacy if, as she claims, I am solely responsible for her privacy?

Mrs Franken insinuates that I keep my house's doors and windows closed for sinister reasons.

If Mrs Franken closes her windows for privacy and comfort (and not for sinister reasons), is it possible for me to also close my windows for privacy and comfort (or perhaps even for security), instead of for sinister reasons?

Why do I close my windows for sinister reasons, but Mrs Franken does not close her windows for sinister reasons?

Why am I definitely sinister and Mrs Franken is definitely not sinister?

If Mrs Franken is not concerned that I am a pedophile or privacy invader, as evidenced by her lack of increasing her privacy, then why did she lodge the complaint with CSOS?

Why is she only trying to increase her privacy by decreasing my security, instead of just reasonably increasing her privacy?

And if she has reasonably increased her privacy, why did she still lodge a complaint with CSOS?

Does any of this make any sense?

It doesn't.

It is completely unreasonable and illogical.

Mrs Franken displayed absolutely no surprise at my allegation that she had been involved in the vandalism at my house.

Her only response was to deny any involvement.

Why was her only response to try to convince me that she was not involved, rather than the more reasonable responses outlined above?

Mrs Franken's neighbour's house was vandalised.

Her only concern is that I do not think she was involved with the vandalism.

She is not concerned that her house will also be vandalised or that there is a vandal in the estate.

She has not done anything to secure her property and she has not shown the slightest concern or understanding for my well-being or safety, or tried to assist me to catch the culprit.

On the contrary, she is only concerned for her own comfort at the expense of my security.

She accuses me of being a pedophile and of invading her privacy, and she is making a concerted effort to decrease my security.

If she thought I had vandalised my own house as an excuse to install cameras so that I can invade her privacy, why has she not taken any steps to secure her own property?

How does a CSOS complaint address the serious nature of Mrs Franken's concerns that I am allegedly a pedophile, privacy invader and vandal?

Mrs Franken is saying and doing unreasonable and illogical things because she is lying, and because she was involved in the vandalism at my house.

But even though I know Mrs Franken was involved in the vandalism at my house, I still respect her right to privacy, and I am not invading her privacy with my cameras.

I have installed 16 cameras on my property because I believe I am living next to people who climbed over my property's wall at night and damaged my property.

It is reasonable to assume that they will try to do it again, and that I need to ensure measures are put in place to prevent that from happening again.

3.6 RE: Mrs Franken's claim that Kleinbron Estate will not allow her to increase her boundary walls' height

Mrs Franken indicated that Kleinbron Estate will not allow her to make her boundary walls higher.

How does she know? Has she asked them? Has she checked the HOA Rules or the relevant City of Cape Town by-law regarding the maximum allowed heights of boundary walls between neighbours?

I contend that if Mrs Franken is someone who does not keep her doors and windows closed to ensure her privacy, then logically Mrs Franken would not have asked Kleinbron Estate permission to increase the height of her boundary walls to increase her privacy.

Which means her statement that Kleinbron Estate would not allow her to make her boundary walls higher are not based on an actual conversation with Kleinbron Estate, but that she is merely saying so to try to evade taking responsibility for her own privacy.

By saying that Kleinbron Estate will not allow her to make her walls higher, Mrs Franken tries to imply that she wants to make her walls higher, but that Kleinbron Estate is preventing her from doing so.

Should she not then be lodging a complaint at CSOS against Kleinbron Estate for preventing her from ensuring her privacy instead of against me?

I am actually helping her to increase her privacy by giving her ideas on how to do it.

The fact of the matter is that it is not that Kleinbron Estate won't *allow* her to make her walls higher, it is that Mrs Franken is *unwilling* to make her walls higher because she knows I am not invading her privacy.

There are no maximum height specifications for boundary walls in the Kleinbron Estate HOA Rules, so property owners are guided by the City of Cape Town by-laws, which allow boundary walls to be up to 2.5 meters high.

If the ground levels are unequal on both sides of the boundary wall, the 2.5m is to be measured from the side with the higher ground level.

We have confirmed this with the City of Cape Town Municipality via email.

Please see **Addendum 11 - Municipal By-Law Regarding Boundary Wall Height**

The boundary wall between me and Mrs Franken's houses is between 1.6m and 1.8m high on my side.

Since Mrs Franken's house is built on a higher elevation than my house, it is likely that the ground level on her side of the boundary wall is higher than mine, so the wall will be even higher than 2.5m on my side.

So, Mrs Franken can legally increase her boundary wall by nearly a meter.

A boundary wall of approximately 2.7m or 2.8m on my side will be more than enough to ensure that my cameras will not be visible to Mrs Franken at all.

Our boundary wall with our other neighbours is only 1.3m high in some places, and it does not make sense for Kleinbron Estate to deprive home owners of their right to privacy by saying they are not allowed to make their boundary walls higher.

I do not believe that Kleinbron Estate has told Mrs Franken that she is not allowed to make her boundary wall higher.

I believe Mrs Franken has told Kleinbron Estate that she should not be expected to make her boundary walls higher, even though she is legally responsible for her own privacy.

The adjudicator can independently verify with Kleinbron Estate's manager whether they prevent residents from increasing their boundary walls to the maximum height allowed by the City of Cape Town.

Mrs Franken has indicated that it would cost her more than R20 000 to increase the height of her boundary wall.

I disagree.

If Mrs Franken chose to increase the height of her boundary wall, to increase it to be 2m high will cost approximately R3 542,13 and to increase it to be 2.5m high will cost approximately R6 472,94 (Please see **Table 1** below).

	Increase wall to 2m		Increase wall to 2.5m	
	Item	Cost	Item	Cost
Cinderblocks	1 cinderblock = 400mm wide Length of wall = 15m Number of cinderblocks needed = 38 1 cinderblock = R13,15	R493,13	1 cinderblock = 400mm wide Length of wall = 15m Number of cinderblocks needed = 132	R1 725,94
Cement	1 bag	R99,00	3 bags	R297,00
Sand	5 bags	R150,00	15 bags	R450,00

	R30 per 40kg bag			
Labour	One full day and one half day R2000 R800	R2 800,00	Two full days R2000 R2000	R4 000
TOTAL		R3 542,13		R6 472,94

Table 1: Approximate cost for Mrs Franken to raise her boundary wall

All prices for materials are taken from the Builders Warehouse website.

The amount of cement and sand needed were calculated with an online cement and sand calculator.

Labour is based on how much I paid two workers to renovate and do building work on my pool.

Mrs Franken is also good friends with a professional renovator, who assisted Mrs Franken to renovate her living area when she moved in, so I am sure he will be able to assist her again at even lower prices than the ones I have given above. Builders Warehouse is notoriously expensive.

Mrs Franken's house is worth approximately R3 million.

When we were still on speaking terms, Mrs Franken told us that she had taken out a home loan of R1.3 million for her house.

The absolute minimum salary for someone to pay off a R1.3 million home loan with an interest rate of 12% is R50 000 per month.

This is a luxury estate, so most people who live here earn much more than that.

Mrs Franken's son is also in a private school, which costs approximately R8 000 per month without extra murals.

So, the above amounts for Mrs Franken to increase her boundary wall's height to ensure her and her daughter's privacy is not an exorbitant amount for her.

If she had saved R600 each month since January, she would have been able to increase the wall's height to 2m already. By the end of the year she could have a wall that is 2.5m high on her side and she would never have to see my cameras again.

There are many other ways for Mrs Franken to increase her boundary wall height which does not involve building.

Stodels and Builders Warehouse have wooden fencing and other materials that can be attached to boundary walls to increase their height.

Mrs Franken can also place pot plants in strategic places on the boundary wall, which are directly between the cameras and her daughter's bedroom window or anywhere else that she wants more privacy.

Since privacy is a subjective matter, it is the person who feels their privacy is being invaded (or in this case a person who feels their privacy might possibly be invaded) to take measures to increase their privacy until they are satisfied that their privacy is adequate.

3.7 RE: Mrs Franken's claim that she asked me directly for permission to have a disco party

This point is not really relevant to Mrs Franken's application, except to show that Mrs Franken is a habitually dishonest person.

Mrs Franken did not directly ask me for permission to hold a disco party for her daughter in her garden. She did not even ask me permission.

She contacted the estate manager to ask him to *inform* us that she was going to hold a disco party for her daughter in her garden and that they would turn the music off by 22:00.

Mrs Franken attempted to bully us into accepting her unreasonably loud disco music by getting the estate manager to contact us on her behalf.

She also pretended that we unreasonably complain about children who walk over the grass in our front yard.

Please see **Addendum 03 - 2022.01.14 Email with Estate Manager**

3.8 RE: Mrs Franken's request for me to lower my cameras

The reason our cameras are installed high up on the walls is because the installer indicated that if they are too low it would be easy for people to tamper with them.

Mrs Franken's request for me to lower my cameras is not going to solve her problem because our boundary walls are so low.

For my cameras to not be visible to Mrs Franken over our boundary wall, the cameras are going to have to be installed at about shoulder height, which is clearly not an appropriate place to install them (Please see **Image 19** below, copied again below for ease of reference).



Image 19: Screenshot taken of one of Mrs Franken's video submissions

In addition, after we were vandalised, we got two Rottweilers and they devour everything within reach, so if we lower our cameras too much, our dogs are going to destroy them.

Since lowering the cameras only slightly would not cause them to be much less visible to Mrs Franken, and since I do not believe Mrs Franken is honest about her privacy invasion allegations, I will only consider lowering them if Mrs Franken raises her boundary wall to the maximum height allowed by the City of Cape Town by-law, which is 2.5m on the highest ground level side.

3.9 RE: Kleinbron Estate's Involvement with my cameras

After our relationship with Mrs Franken deteriorated, I informed Kleinbron Estate of the matter. They indicated that the HOA could not become involved because the matter

was too complex, and encouraged me to contact the relevant law enforcement authorities.

After our house was vandalised during Christmas 2021, I asked Kleinbron Estate's security company, SJC Security, to come and look at the damage, which they did, and they wrote a report.

I also opened a criminal case at the police.

Please see **Addendum 12 - 2022.01 Criminal case for vandalism**

On 27 December 2021, my wife sent an email to Kleinbron Estate informing them that our house had been vandalised and that we had gotten a dog.

Kleinbron Estate did not reply.

I decided to install CCTV cameras.

As indicated previously, I did inform both Kleinbron Estate and the owner of SJC Security of my intentions to install CCTV cameras prior to installing them.

The day I had booked for the installation turned out to be just before Mrs Franken's daughter's 9th birthday party.

Mrs Franken had sent an email to the estate manager asking him to inform us of the party.

Since Mrs Franken's friend, Mr Johnson, had previously falsely accused me of recording his child in a towel, I expected Mrs Franken to accuse me of installing CCTV cameras to record her daughter's birthday party, so I sent an email to the estate manager to let him know that I had booked the installation of the cameras before I had known about the party.

Please see **Addendum 03 - 2022.01.14 Email with Estate Manager**

I Whatsapped the owner of SJC Security on 11 January 2022 and asked if SJC Security could be present during the installation.

This Whatsapp was also forwarded to the Kleinbron Estate manager.

Please see **Addendum 03 - 2022.01.14 Email with Estate Manager**

Nobody from Kleinbron Estate or SJC Security was present on the day of the installation.

If they had been present they would have been able to examine the cameras and their locations before they were installed, and they would have been able to raise any objections to their specifications, or to their locations on the walls.

I expected Mrs Franken to pressure Kleinbron Estate to convince me to remove my cameras, so after my cameras were installed, I contacted the estate manager to ask him to come and inspect my cameras to assure everyone that I was using them in an acceptable manner.

I also told him that I would allow the owner of SJC Security to have personal access to my video footage via a mobile app to reassure my neighbours that I was not spying on them.

Please see **Addendum 03 - 2022.01.14 Email with Estate Manager**

I see in one of documents that Mrs Franken has submitted to CSOS that the Kleinbron Estate manager had indicated to her in an email that residents had been complaining about my cameras since 17 January 2021, which is probably why the estate manager agreed to come to my house after I had installed them, even though I had also asked him to come before I had installed them.

On 24 January 2022, the estate manager, head of trustees, and a representative of SJC Security came to my house to look at my cameras and what they were recording, but before they had even stepped in the door they started attempting to pressure me to remove my PTZ cameras and to replace them with static ones.

The estate manager told me that many residents had complained that I was illegally recording children in the municipal park and dam across from my house, which I had not done.

The estate manager told me that I had to be registered with PSIRA to record public areas.

The PSIRA Act is only applicable to the Private Security Sector, of which I am not a member, so it is not applicable to me.

On 28 January 2022, after I had sent a Letter of Demand to initiate legal action against Mr Johnson, Mr Johnson sent me a Whatsapp in which he claimed to have spoken to the estate manager, who had apparently told him that I was not "POP Act registered" (sic) to record public areas.

I am not sure how anyone becomes "POP Act registered" (sic).

Please see **Addendum 13 - 2022.01.28 Whatsapps T.Fitchat and T.Johnson**

I am not aware of the fact that the estate manager is a qualified attorney, or how he is otherwise qualified to provide legal advice to residents.

When the estate manager is attending to his duties as the estate manager, there is a certain level of professionalism and accountability that is expected of him.

Providing incorrect legal advice in his capacity as the estate manager in order to convince a resident to act in a certain manner, can surely not be acceptable.

While the estate manager was at my house, he also told me that he was receiving 20 emails a day from people complaining about my cameras, and that they were threatening to take him to CSOS.

I felt that, since there were no HOA Rules against me installing PTZ cameras, the estate manager was acting outside his jurisdiction, and that he was responding to group pressure orchestrated by Mrs Franken.

I felt that he was more concerned with Kleinbron Estate's image as a security estate than with my actual security, and that he didn't want to be peppered with complaints anymore.

I suspect the people who complained about our cameras were either friends, family and/or co-workers of the Frankens and Johnsons who also live in the estate, or other residents who had read or heard about Mr Johnson's defamatory Whatsapp.

After the estate manager, head of trustees and SJC Security left, they sent me an email in which they attempted to convince me to agree in writing that I would make certain adjustments to my cameras to make them static, including possibly taping them or drilling holes into them to insert screws to prevent them from being able to turn.

Surely drilling holes into my cameras would break them and then they would not be covered by their guarantee anymore.

I replied by saying that I would not agree to doing that, and that I was also not going to remove my PTZ cameras or replace them with static ones.

On 14 February 2022 Kleinbron Estate held a trustee meeting regarding my cameras and found that I was not breaking any of the estate's rules.

They decided not to be involved in the matter any further and referred everyone to CSOS.

Please see **Addendum 05 - 2022.03.23 CSOS M.Johnson Estate Manager Email**

It seems that all the allegations against me are that I am allegedly illegally recording children, and particularly allegedly "little girls" and even more particularly allegedly in their bedrooms and bathrooms.

The insinuation is logically that I am a pedophile.

If I were a pedophile who was indeed recording "little girls", which I am not, this is a criminal matter, not a civil one.

After Mr Johnson posted his defamatory Whatsapp, he apparently reported me to the police for recording his child in a towel.

Two days later two social workers from Badisa Trio, an organisation who investigate claims of child abuse, came to my house.

They interviewed me and my wife and examined our two children.

They found no evidence of child abuse or of any other indications that I have sexually deviant inclinations towards children.

The adjudicator can independently verify this information with Badisa Trio. They were here on 12 January 2022, and my address is 91 Frangipani Street, Kleinbron Estate, Brackenfell.

Sometime later a detective called me to say that the dockets of the criminal charges against me had been closed because there was no evidence of any of the claims.

Why is Mrs Franken continuing to pursue the matter when she knows a technician was responsible for inadvertently turning the cameras on 6 May 2022, and if both Kleinbron Estate and the police have found that there is no evidence that I am doing anything wrong?

Why go on a personal vigilante mission for "justice" and not just let police do their job?

I have no previous criminal records and I am not on any sex offenders list.

On 28 March 2022 Mrs Franken lodged her complaint against my cameras with CSOS.

On 6 May 2022, my cameras were inadvertently turned towards Mrs Franken's house while a technician was working on them.

I see the Kleinbron Estate manager was sitting in Mrs Franken's house when she took the video footage of the cameras that were turned towards her house (Please see **Image 20**).

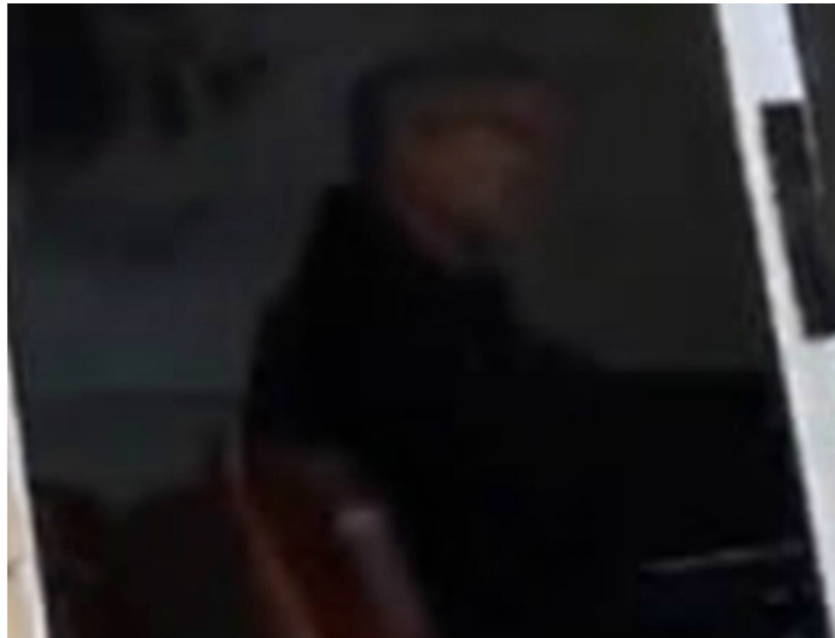


Image 20: Mr Alex van Niekerk, the Kleinbron Estate manager, sitting in Mrs Franken's house while she was taking a video of my cameras, in the week of 2-6 May 2022

The estate manager had indicated that Kleinbron Estate would not be further involved with our cameras, so why was he still being involved in our cameras?

Why was he only involved in Mrs Franken's side of the cameras on the day that Mrs Franken took the video, which was after he had indicated they would not be further involved in our cameras?

If he was going to continue being involved in our cameras, why was he not impartially involved in both sides, so that we could have clarified the situation?

If the estate manager had simply come over to our house, we could have shown him that the cameras were switched off.

Is it not reasonable for me to assume that, since the Kleinbron Estate manager was sitting in Mrs Franken's house while she was recording our cameras, that he had given her advice on how to proceed?

There was no apparent effort on his part to contact us.

Why is the estate manager assisting a resident one-sidedly with their CSOS application, especially after he had indicated he would not be involved in the matter anymore?

Surely this proves the bias that I accused him of in the first place, and partially the reason why the matter was referred to CSOS.

On 20 May 2022, while I was waiting for a conciliation date with Mrs Franken, Kleinbron Estate sent out an email saying it had been communicated at the AGM (Annual General Meeting) that the new HOA Rules were under review by CSOS.

Please see **Addendum 14 - 2022.05.20 Email from Kleinbron Re AGM and HOA Rules**

Attached to the email was the new set of revised HOA Rules, which included:

16. CCTV INSTALLATIONS

CCTV installations are discouraged but will be permitted under the following circumstances:

16.1 All installations must be registered with the HOA Office.

16.2 Cameras must be installed in a way that they do not cover/view any areas outside the boundaries of the property.

16.3 Cameras with PTZ facilities are not permitted.

16.4 Cameras with bi-directional communication are not permitted.

Copies of Kleinbron Estate's previous and new HOA Rules are included in the addendums.

Please see **Addendum 01 - 2022.05.20 Kleinbron Estate HOA Rules**

Please see **Addendum 02 - 2015.09.07 Kleinbron Estate HOA Rules**

I have not been contacted by Kleinbron Estate that I am in breach of their HOA Rules.

I would be very surprised if they do.

I had informed them that I was going to install cameras before I installed them, and I had also asked them to be present during the installation, but I received no reply, no objection, and nobody was present during the installation.

Kleinbron Estate indicated in an email that the Board of Trustees had found at a trustee meeting that there was no concrete evidence of me transgressing any rules of the Estate.

Please see **Addendum 05 - 2022.03.23 CSOS M.Johnson Estate Manager Email**

Kleinbron Estate's revised rules came into effect on 11 April 2022. I had installed my cameras in January 2022.

The Kleinbron Estate Constitution itself states that,

36. "...no regulation made by the Association in general meeting shall invalidate any prior act of the Trustee Committee which would have been valid if such regulation had not been made." (Pg. 18)

Please see **Addendum 06 - Kleinbron Estate Constitution**

By their failure to object to my cameras when I told them I was going to install them, and by their indication that I was not transgressing any rules of the Estate, Kleinbron Estate had effectively consented to my cameras.

Since the Kleinbron Estate HOA Rules are not retroactively enforceable, their new rule not permitting my kind of cameras does not apply to my cameras.

I am unsure why Mrs Franken considers herself to have the authority to enforce an HOA Rule that even Kleinbron Estate itself cannot.

To return to my point regarding Kleinbron Estate's indication that they would not be involved in my cameras any further.

I feel I have not been treated fairly and impartially by the Kleinbron Estate management at all regarding the matter of my cameras.

I feel that they side with Mrs Franken and the other residents because of group pressure, and because the members of the group appear to not be related to each other, when they are, i.e. they are friends, family and/or co-workers of the Frankens

and Johnsons, or residents who had been influenced by Mr Johnson's defamatory Whatsapp.

I hope CSOS will involve Kleinbron Estate in this application.

Kleinbron Estate has attempted to pressure me to remove my cameras, even though they had no authority to do so, and even though they had received no evidence of my alleged crimes.

I was not given a fair chance to defend myself against any complaints and allegations regarding my cameras.

I do not know who complained, and I do not know what exactly they complained about.

I have received only three CSOS complaints, and I have answered all of them to the best of my ability.

Because Mrs Franken and her friends were unable to bully me into removing my cameras by reporting me to the police and through other means, they tried using the Kleinbron Estate HOA to bully me, because the HOA apparently does not have the skills to do an impartial investigation, and merely gave in to pressure from Mrs Franken and her friends.

As a result of Mr Johnson's defamatory Whatsapp and Mrs Franken and her friends' lobbying against me, Kleinbron Estate appears to have held a kangaroo court where I was not even present, where I was not informed of the exact charges against me, or shown any evidence of their allegations, but I was apparently found guilty.

The new rules regarding CCTV camera installations further indicate their bias in favour of Mrs Franken.

Kleinbron Estate has to answer why they keep being involved in my cameras after they said they would not be, and why they continue to pander to Mrs Franken.

It is easy for residents to be "social justice warriors" if all they have to do is to send an email of complaint to the manager.

It is not so easy to be a social justice warrior when you actually have to stand up in a court to defend your allegation and provide evidence.

The Kleinbron Estate manager indicated that he was receiving 20 emails a day of people complaining that I am recording "little girls".

I am accused of recording LITTLE GIRLS!

By at least TWENTY people.

Was it the same twenty people every day, or different people?

If it was a different twenty people every day, how many people in total? Forty? Fifty?
A hundred?

Where are they?

Why are they not all up in arms and flooding CSOS with their complaints?

Why have they all suddenly disappeared?

Are they not concerned about the little girls anymore?

What has happened in the meantime?

Absolutely nothing.

My cameras are still attached to my walls.

They are still recording.

They are recording my property for surveillance, and not "little girls", but that is how it has been all this time, including when the estate manager was receiving 20 emails a day that I was allegedly recording "little girls".

I have only received three CSOS complaints, and I have attended all three conciliation meetings.

So now I am left with three CSOS complaints after an unknown but apparently vast number of individuals had complained to the Kleinbron Estate manager.

I hope that Kleinbron Estate will join this application, and that Kleinbron Estate will include all email complaints regarding my cameras in their reply, so that I am able to defend myself against their allegations.

Kleinbron Estate markets itself as a security estate, which is why I moved here.

After a number of crimes and attempted crimes were committed in the estate, the estate manager informed us via email that each resident is responsible for the safety of his own property.

Please see **Addendum 15 - 2021.04.28 Kleinbron Security Notice**

This was also confirmed by the owner of SJC Security, who personally recommended me to get CCTV cameras after I informed him that I was being harassed and that my house had been vandalised.

He also recently advertised CCTV cameras after there was a burglary in the estate.

Please see **Addendum 16 - 2022.03.02 SJC Security Owner CCTV Advertisement**

I was surprised to learn that I was responsible for the safety of my own property, because I had been under the impression that the estate's security company was responsible for the safety of my property.

Kleinbron Estate did not provide any specifications for exactly how residents were or were not allowed to ensure the safety of their properties.

They seemed to leave it up to the discretion of each resident to do so.

I realised I had been living under a false sense of security, so my decision to install CCTV cameras was partly in response to the abovementioned email.

Kleinbron Estate indicates that this is a 24-hour manned security estate.

The security guards do patrols, which involves a security guard walking or driving past the houses, which takes about 5 seconds for each house.

Items in both my front and back yard had been vandalised in December 2021, so the patrols did not deter the perpetrators from vandalism.

After I reported the vandalism in my back yard to SJC Security, I was informed by a different SJC security guard that my property was safe because SJC Security does patrols.

Clearly their patrols had not prevented my house from being vandalised.

As soon as the patrol is past, the criminal can commit his crime, and it will be hours before the next patrol.

The security guards are not able to be present at my house and in my back yard 24 hours a day. It is simply not practical.

However, I think both I and Kleinbron Estate have been under the false impression that there aren't any criminals living inside the estate.

CCTV cameras are a permanent fixture and are able to permanently capture illegal activity for criminal prosecution of the perpetrators.

I disagree with Kleinbron Estate's new HOA Rules regarding CCTV cameras, even though they are not applicable to me. I think their rules decrease the security in the estate.

I think they implemented these rules because they do not want to be bothered by residents complaining that their neighbour's new PTZ cameras could potentially invade their privacy.

They are sacrificing security for their own convenience.

Kleinbron Estate's new HOA Rules regarding CCTV cameras start off with

3.9.1 RE: "CCTV installations are discouraged..."

So, after saying that residents are responsible for the safety of their own properties, Kleinbron Estate is now discouraging residents from ensuring the safety of their properties.

If we are discouraged from installing CCTV, how else are we supposed to secure our properties? In my case, particularly against vandalism.

Burglar bars are not going to prevent someone from tampering with my pool's safety cover.

Firstly, Kleinbron Estate indicated in an email sent out after the burglary on 1 March 2022 that they have done an investigation of their security, and one of the weaknesses they identified is that their own CCTV cameras are not able to stay on for the entire duration of load shedding.

Firstly, why on earth would you inform people of such an enormous technical problem with your security in a mass email?

If someone with criminal intentions learns about that they will know they can commit a crime right in front of your cameras near the end of load shedding. The security in those areas are now decreased.

Please sort out the power supply of your security cameras.

Surely spending the budget on ensuring that all the cameras are able to stay on during load shedding is more important than spending the budget on creating a new logo and upgrading the appearance of the main entrance.

Secondly, after the burglary in Kleinbron Estate on 1 March 2022, the victim asked for people with CCTV cameras in her street to please contact her or SJC Security.

Please see **Addendum 17 - 2022.03.01 Response to Burglary on 1 March 2022**

Residents who have CCTVs were able to help SJC Security and the police in identifying the burglars.

Why then are we being discouraged from installing CCTV cameras?

Why are we being discouraged from being able to identify criminals?

The owner of SJC Security himself asked that residents not become complacent regarding security at home, and that SJC Security sold CCTV cameras for home use.

Please see **Addendum 17 - 2022.03.01 Response to Burglary on 1 March 2022**

The estate manager had also indicated to me that they were planning to install CCTV cameras that would record the street in front of my house after this year's budget had been approved, but I have not yet seen any evidence of these cameras being installed.

Kleinbron Estate discourages me from installing CCTV cameras so that I cannot keep my property secure, but they also do not install the CCTV cameras that they said they would so that they can keep my property secure.

Who then is going to keep my property secure?

3.9.2 RE: "...but will be permitted under the following circumstances:"

So, we are allowed to secure our properties, but we must just not secure them too much. Kleinbron Estate will decide by how much we are allowed to secure our properties.

3.9.3 RE: "16.1 All installations must be registered with the HOA Office."

I think this is a very good idea because it will allow Kleinbron Estate to quickly contact residents with CCTVs in the case of a crime or an attempted crime.

The following rules are concerning, though, because I think they decrease the security of individual properties and of the estate.

3.9.4 RE: "16.2 Cameras must be installed in a way that they do not cover/view any areas outside the boundaries of the property."

The municipal streets in front of residents' houses is what criminals will be using to access the areas where they will commit a crime.

Being able to identify a suspicious person or vehicle moving past your house will greatly increase the chances of catching a criminal.

If criminals know that there are cameras recording a street they will be much less likely to use that street.

They will use a street where they know they will not be recorded.

If you only record up to the boundary of your property, criminals only have to take a few steps, and then they completely disappear.

It will be much more difficult to track them because SJC Security now have to go looking up both sides of the road for them (or in my case, up both sides of two roads and they will have to cover an entire public park as well).

I understand that people are concerned about their privacy, but CCTV cameras that are able to record the street in front of a house increase the safety of the people who walk there as well.

If I just looked out of my window I would be able to see the people walking along the street as well.

It is not as though my cameras were seeing anything that I would not also have been able to see with my eyes.

Surely people do not have a reasonable expectation to privacy in publicly visible areas, and people must use their common sense to not do something there that they don't want other people to see.

I have been harassed at my home by people in the public area outside by house, so it is essential that I be able to record them in order to take legal action against them.

I do not use the footage for any other purpose than for my security, and the only people who have access to the footage is me, my wife, security, detectives and law enforcement.

3.9.5 RE: "16.3 Cameras with PTZ facilities are not permitted."

I understand that Mrs Franken's alleged concern with my cameras are that they are PTZ, and not that they are CCTV cameras in themselves.

But I contend that there is nothing inherently illegal in installing PTZ cameras for residential use.

I have already previously explained why my cameras had been turned towards Mrs Franken's house on 6 May 2022.

Since Kleinbron Estate indicated I was responsible for the safety of my own property, and since there were no rules regarding the installation of CCTV cameras at the time when I installed them, I installed PTZ CCTV cameras.

I did a lot of research and spoke to the salesperson at a shop that sells CCTV cameras, who indicated that they sell PTZ cameras for residential use all the time.

I felt that PTZ cameras were technologically advanced and offer me the best protection that was available on the market at the moment.

If someone climbs over our wall again, and we see or hear them, we can easily switch on our cameras' audio, PTZ and human tracking function and see where the criminal goes or tries to hide.

If we see someone in our yard and we call SJC Security, it will take a few minutes for them to arrive. By that time the criminal would have had time to get away or hide.

My house is on a corner and there is a large municipal park and dam across from my house. There are many directions in which a criminal can run after having committed their crime.

The PTZ human tracking function allows us to have a greater chance of catching the criminal.

Potential criminals are also just scared off by CCTV cameras that have the potential to track them, even if that function is not permanently switched on.

I believe my PTZ cameras are essential for my family and my property's safety, and that they offer greater security than static cameras.

If I had installed static cameras, Mrs Franken would have either found fault with them as well, or she would have found a way to use them against me as well.

Mrs Franken's problem is me, not my cameras.

If Mrs Franken feels I am invading her privacy, then even if my cameras are replaced with static cameras, I would still be her neighbour.

Surely if she thinks I am invading her privacy with my cameras, she would think that I would try to invade her privacy in other ways if my cameras are replaced.

It is not as though I am hiding in a dark room secretly recording "little girls" without anyone's knowledge.

My cameras are clearly and I dare say blatantly installed on my walls and are visible for everyone to see.

There is no secret recording or sinister motives involved at all.

Technically a hand-held phone with a camera can also be used as a PTZ camera, and everyone these days owns one of those.

The quality of the images of my CCTV cameras is just like any other CCTV cameras. I am sure everybody has seen CCTV footage before.

My cameras are not the Hubble Space Telescope that can see an ant on the other side of the estate.

I strongly disagree with Kleinbron Estate's new rule that PTZ cameras are not allowed.

PTZ cameras greatly increase the safety of an area and they increase the chance of criminals being caught.

In fact, I would recommend Kleinbron Estate to rather upgrade their current static security cameras to cameras that are more technologically advanced like PTZ cameras in order to increase the safety of the estate as well.

Can Kleinbron Estate prove static cameras are more effective at catching criminals than PTZ cameras?

Kleinbron Estate is put to the proof thereof.

I cannot include a photograph of what my cameras are able to view because I do not trust Mrs Franken with such information regarding my security.

I welcome the adjudicator to do a site inspection to see what my cameras are able to view.

Since I believe the Kleinbron Estate management is biased against me, I will not permit them to do the site inspection on behalf of the adjudicator.

3.9.6 RE: "16.4 Cameras with bi-directional communication are not permitted."

One of the reasons why I chose a camera with an audio function was to gather evidence of the excessive noise nuisance that Mrs Franken's children and their friends were creating outside our house at night.

They kept screaming and shouting outside our house at night, in particular outside our and our children's bedroom windows, which was waking and scaring them.

Such children need to be recorded so that their parents can be contacted and informed about what their children are doing, and so that we can find out who is telling the children to scream outside our windows at night.

Those parents need to know what their legal responsibilities are regarding their children who are not acting in accordance with the law, and that they will be held responsible for the behaviour of their children, if their children are breaking the law.

I strongly disagree with Kleinbron Estate's new rule that bi-directional cameras are not allowed, since I do not think any estate has the authority to prevent their residents from recording someone breaking the law, even if it is a child, and which in this case is related to noise, for the purposes of enforcing my legal rights to enjoy my property.

After we installed our cameras, the noise nuisance stopped, so we switched off our cameras' audio recording.

If the noise nuisance starts again, we will switch the audio recording on again.

Calling SJC Security is not effective at reducing the noise nuisance.

We called security once before, but when they arrived they told us they had just been here 5 minutes before to tell the children to be quiet.

The children did not listen, and kept making a noise.

Other residents who have complained about the children in the estate have also indicated when they call security, the children all run in different directions and hide, so it is impossible for security to find them.

The audio recording does not record further than the boundary of our property, except if there is a very loud noise, which is exactly what we want to record if it reaches illegal volumes and regularities.

The audio recording definitely does not reach far enough to be able to hear anything in Mrs Franken's house.

They are not the Hubble Space audio recorders.

Yes, I know there is no sound in space, and yes, I am again being ridiculous for the sake of arguing my point.

As mentioned previously, if we hear or see someone in our back yard, we can easily switch on the audio recording which will assist in tracking them.

Since we had people trespassing on our property and vandalising items in our front and back yards, the bi-directional audio also allows us to use the cameras to tell people to move off our property without having to confront them in person.

We have no interest in recording any audio unless it is of an unacceptable and illegal volumes or regularities.

We confirm that we will only use the audio recording for law enforcement purposes.

4. OTHER RELEVANT LAWS

4.1 Right to Equality

South African Bill of Rights

9. Equality

3. The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic for social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

4. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

I contend I am being unfairly discriminated against by Mrs Franken based on the fact that I am a male, and because of the shock factor she can create by merely saying “that man is recording little girls” with the implication that I am a pedophile.

4.2 Right to Human Dignity

South African Bill of Rights

10. Human dignity

Everyone has inherent dignity and the right to have their dignity respected and protected.

Mrs Franken’s baseless sexually related allegations that I am “recording little girls” are also depriving me of my right to dignity and the right to have my dignity respected and protected.

4.3 Right to Security of Person

South African Bill of Rights

12. Freedom and security of the person

1. Everyone has the right to freedom and security of the person,

The purposes of my CCTV cameras are to:

- detect, deter and prevent crime;
- enhance the safety of my property and my family;
- assist in the apprehension and prosecution of offenders or to institute a civil case against them; and
- assist law enforcement agencies, including private armed response and security companies, with regard to the investigation of any apparent or actual crime.

4.4 Right to Privacy

South African Bill of Rights

14. Privacy

Everyone has the right to privacy

Mrs Franken has the right to privacy, and I am not invading her privacy.

4.5 Children's Rights

South African Bill of Rights

28. Children

1. Every child has the right [...]

d. to be protected from maltreatment, neglect, abuse or degradation;

2. A child's best interests are of paramount importance in every matter concerning the child.

I am not infringing on the rights of any children.

4.6 City of Cape Town Policy

There is nothing inherently illegal about installing privately owned CCTV cameras with a PTZ function.

As can be seen in the policy below of the City of Cape Town, the application form to install CCTV cameras on City Property asks applicants to indicate whether their CCTV cameras are PTZ or static.

Regulation of External and Privately Owned CCTV Cameras on City Property - (Policy number 21207) approved on 25 June 2014)

Annexure 10.2



CITY OF CAPE TOWN CCTV CAMERA REGISTRATION FORM				
INFORMATION REQUIRED FOR CCTV DATABASE				
No	Location	At intersection or between which roads	Purpose	PTZ or Static
1				
2				

Image 21: Annexure 10.2 of the CoCT CCTV Policy

4.7 Limitation of Rights

South African Bill of Rights

36. Limitation of rights

1. The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including

- a. the nature of the right;
- b. the importance of the purpose of the limitation;
- c. the nature and extent of the limitation;
- d. the relation between the limitation and its purpose; and
- e. less restrictive means to achieve the purpose.

2. Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

Protection of Personal Information Act, 2013

PREAMBLE

RECOGNISING THAT-

- section 14 of the Constitution of the Republic of South Africa, 1996, provides that everyone has the right to privacy,
- the right to privacy includes a right to protection against the unlawful collection, retention, dissemination and use of personal information,
- the State must respect, protect, promote and fulfil the rights in the Bill of Rights,

AND BEARING IN MIND THAT-

- consonant with the constitutional values of democracy and openness, the need for economic and social progress, within the framework of the

information society, requires the removal of unnecessary impediments to the free flow of information, including personal information,

AND IN ORDER TO-

- regulate, in harmony with international standards, the processing of personal information by public and private bodies in a manner that gives effect to the right to privacy subject to justifiable limitations that are aimed at protecting other rights and important interests.

Mrs Franken does not have a greater right to privacy than I have to safety.

A temporary and accidental turning of the cameras needs to be weighed up against the benefit of the greatly increased ability of being able to track, catch and prosecute a criminal.

The major benefit of a greatly increased chance of criminal prosecution with my PTZ cameras far outweighs the imagined constant privacy invasion of Mrs Franken's daughter's bedroom.

It is my responsibility to ensure my cameras are not turned towards my neighbours, and they are not, but if they still feel uncomfortable, it is their responsibility to increase their privacy to the degree to which they feel comfortable.

4.8 Right to Property

South African Bill of Rights

25. Property

1. No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

I will deal with this point below. I believe that Mrs Franken is attempting to deprive me of my right to my property.

5. REAL ESTATE HARASSMENT

I believe Mrs Mariné Franken is purposefully being an obnoxious neighbour in order to coerce me and my family into relocating, and her CSOS application is a part of the coercion that I have been experiencing from her for the past year.

Mrs Franken claims she is a good neighbour, but she is not a good neighbour and she has no intention of ever being a good neighbour or to leave us alone.

I believe she has every intention to be the absolute worst neighbour she can be.

The elements of Mrs Franken's attack on me and my family have most of the components of real estate harassment, which is the crime of attempting to illegally evict a legal home owner from their property for their own financial gain.

They convince other neighbours that the home owner has committed some crime, of which they unfortunately happen not to have any evidence.

They convince the other neighbours that they are in danger, and then they ask the other neighbours to report the home owner of imagined crimes in order to ensure those neighbours' safety.

False accusations often include accusations of child molestation and irrational aggression.

Real estate harassers persistently and ceaselessly annoy, bother, agitate, exasperate and provoke the home owner until he is so desperate to get away from his nightmare neighbours that he decides to sell his house.

The real estate harassers ensure the property does not get sold at market value, by creating a nuisance whenever a potential buyer comes to view the house.

The real estate harassers then send in someone who is unknown to the home owner, but who is part of the real estate harassment, to view the house, and that person puts in a much lower offer than the property is worth.

Since the home owner is so desperate to get away from his neighbours, and he is unable to get a fair offer, he accepts the much lower offer and unknowingly sells his house to the very people who had strong-armed him out of his house.

The real estate harassers then resell the house at a much higher price, making an enormous and undeserved profit.

It is very difficult to obtain evidence of real estate harassment because of the nature of the crime, which is to disguise the harassment as innocent-looking actions designed to gaslight the victim, and because it happens at any hour of the day.

Our house is on a corner, and we have two direct neighbours, the Frankens and the Johnsons. The Frankens and the Johnsons moved into their houses shortly after I moved into mine.

The Johnsons are close friends of the Frankens, and the Johnsons also seem to be a part of the real estate harassment.

Mrs Franken uses her own property, the Johnsons' property, the two streets in front of our house, and the public area in front of our house, to harass us.

Their harassment includes trespassing, loitering, stalking, excessive noise, vandalism, defamation, opening false criminal cases at the police, child abuse allegations, pedophilia allegations, threatening me physically, threatening me with legal action, turning other neighbours and the Kleinbron Estate Home Owner's Association against me, and opening numerous CSOS cases against me.

I have twice applied for a protection order against Mrs Franken but was unsuccessful because of a lack of evidence at the time.

The reason I installed cameras was to obtain evidence of the vandalism and harassment, and I have been working with a detective on how to gather evidence in order to open a criminal case against Mrs Franken.

All relevant evidence is immediately forwarded to the detective as soon as an incident occurs.

I will also pursue a civil case against her if necessary.

I would not put it past the Frankens and Johnsons to escalate their harassment to death threats or murder, even though they will not be able to profit from either of these.

I have put measures in place to ensure my house will not be sold if either me or my family is harmed or killed.

I have also put measures in place to ensure the remaining members of my family are taken care of, and the perpetrators will face both criminal prosecution and a damages lawsuit to recover the lost income that my family would have had.

The documents have already been prepared, and I have authorised someone to initiate the lawsuit if anything happens to both me and my wife.

Copies of evidence, relevant documents and a list of names and addresses of individuals who appear to be involved have been sent to a number of individuals, including a detective, who will investigate the matter further.

I have also ensured that the matter will be sent to the media, including Carte Blanche, if anything happens to us.

If they find anything worth investigating, I am sure Mrs Franken can understand that the police investigation and media coverage will rival the Oscar Pistorius, Henry van Breda, Spier and Dewani murders because it happened in a luxury estate.

The only end result of the Frankens' and Johnsons' real estate harassment is that they will end up in prison.

But fortunately, Mrs Franken has a "clear conscience" so she has nothing to worry about.

Even though the Frankens and Johnsons are doing all these things, my cameras are still not invading Mrs Franken's privacy. My cameras are recording my own property.

Instead of simply increasing the privacy of her property, Mrs Franken is choosing to sell herself as a victim to her neighbours, the Kleinbron Estate HOA and CSOS, by construing that I am infringing on her rights, when she knows full well that I am not.

Mrs Franken is intent on victimising me by raising baseless allegations against me.

Mrs Franken is attempting to bully me by getting her friends to complain to Kleinbron Estate and CSOS about my cameras, all of them alleging that I am recording their children's bedrooms and bathrooms.

None of these neighbours provide any actual evidence for their allegations, so they are attempting to substitute evidence with ganging up tactics.

The three neighbours' nuisance complaints that are lodged with CSOS are designed to mock me and to waste my time, while I have to respond to each one of them as though they are serious complaints.

Each additional person who lodges a complaint, attempts to use my replies to the previous person, against me.

I believe Mrs Franken is also attempting to use my CSOS replies to obtain "evidence" against me that I am "illegally recording children" for Mr Johnson's lawsuit.

She will fail.

These three neighbours are also attempting to join their cases, because they know their cases have no merit on their own, and they hope that joining the cases will miraculously mean that CSOS will find in their favour.

These kinds of tactics may have worked with the Kleinbron Estate manager and HOA, but fortunately that is not how the legal system works.

Your allegation needs to be based on the law and to be substantiated by actual evidence.

All three applications, including Mrs Franken's, is frivolous, vexatious, misconceived and without substance.

Just because it is legal for my neighbours to lodge a multitude of complaints at CSOS, does not make it right to do so.

It is immature and wastes valuable time and resources.

Mrs Franken has indicated that she has exhausted all other avenues and that CSOS is the only solution.

Has she sent me even one Whatsapp, SMS or email about the cameras?

Mrs Franken is the perpetrator of the privacy invasion and she is attempting to hide it by accusing me of the exact thing she is doing to me, in order for her to appear to be the victim, and me the perpetrator.

I think Mrs Franken wants a lifestyle that she cannot afford, and that she does real estate harassment for additional income.

My house is prime real estate. It is across from a beautiful dam and it has a stunning view of the mountains. My house will sell itself without me needing to use a real estate agent to sell it for me.

Unless the owner is accused of being a pedophile.

Then the value of the house would significantly decrease.

Who wants to buy a house where a pedophile lived? Not many people.

Mrs Franken and Mr Johnson's accusations that I am a pedophile has decreased the value of my house, and which is what they thought they could capitalise on in order to maximise their profit.

The ultimate reason for this whole situation is because at her core, Mrs Franken is unhappy. She thought that if she moved to Kleinbron Estate and made an additional income through real estate harassment that she would be happy, but she will never be truly happy until she accepts herself, her place and position in life, and the consequences of her life choices.

She has much to be thankful for, and instead of being ungrateful and complaining, she should embrace the reality of her life and make it good without trying to destroy other people's lives.

Making other people unhappy will not make her truly happy.

I do not want to get personal, but in light of the sexually loaded allegations against me, I feel it is appropriate for me to assure Mrs Franken that I do not find her (or her daughter, since I am accused of recording her bedroom) even remotely attractive.

In fact, I find them both exceedingly unattractive and loathsome.

Mrs Franken is teaching her daughter to be just as scheming and conniving as she is.

The only interest I have in them is to record their crimes on my property in order to make sure they go to prison.

They are not and will never be attractive to me, no matter how many cosmetics, hair products and Whatsapp profile photo filters they use.

There is nothing attractive about criminals who belong in prison.

6. REQUEST FOR ADJUDICATOR TO DO A SITE VISIT

I request a site visit by the adjudicator because there are additional specifications regarding my cameras that are crucial to this case and that I am unable to discuss in my pleadings or to reveal to Mrs Franken because I suspect she was involved in the vandalism of my property.