

**NOTICE OF CANCELLATION OF CONTRACT
AND TERMINATION OF LEVY PAYMENT**

RUBEN THEODOR AND SONET FITCHAT

91 FRANGIPANI STREET

KLEINBRON ESTATE

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Date: 17 April 2023

KLEINBRON ESTATE HOME OWNERS ASSOCIATION

ALEX VAN NIEKERK

69-71 KLEINBRON AVENUE

KLEINBRON ESTATE

BRACKENFELL

7560

BY EMAIL: manager@kleinbronestate.co.za, info@kleinbronestate.co.za,
kleinbron@kleinbronestate.co.za, trustees@kleinbronestate.co.za

Dear Kleinbron Estate Home Owners Association (HOA) and Mr Alex van Niekerk,

**RE: NOTICE OF CANCELLATION OF CONTRACT AND TERMINATION OF LEVY
PAYMENT**

1. My wife and I have been the owners and residents of 91 Frangipani Street, Kleinbron Estate, since August 2019, and I have paid a monthly levy to the Kleinbron Estate HOA through Osro Property Managing Agents every month since August 2019.

2. I am currently taking legal action against the Kleinbron Estate HOA and the estate manager, Mr Alex van Niekerk, for breach of contract.
3. The Kleinbron Estate HOA and Mr Alex van Niekerk have filed an exception to my summons, in which they ask me for a copy of the contract that I have with the Kleinbron Estate HOA in a manner that suggests that there is no contract between us.
4. There is only one contract between us, so the fact that they are asking me to send it to them and to tell them what kind of contract it is, and with whom it was concluded, means that they are suggesting they don't have such a contract with me, and that the contract doesn't exist.

BE PLEASED TO TAKE NOTICE that the defendant and third party hereby notes their request to the plaintiff to comply with Rule 6(6) for the following reasons:

1. To the extent that the plaintiff relies upon a contract in his claim – see, for instance the reference to “the contract” in sub-paragraph 5.1 of the particulars of claim (“POC”); “its contract” in sub-paragraph 6.75 of the POC; “contracted” in sub-paragraph 7.8 of the POC and “the Defendant’s contract with the Plaintiff” in sub-paragraph 8.2 of the POC - the plaintiff has failed to state whether the contract is in writing or oral and when, where and by whom it was concluded and if the contract is in writing a copy thereof or of the part relied on in the claim shall be annexed to the claim.

Please see

2023_02_27_Defendant_&_Third_Party's_Notice_of_Intention_to_Except

5. Since the Kleinbron Estate HOA and Mr Alex van Niekerk suggest there is no contract between us and therefore no contractual obligations that they need to fulfil towards me, it stands to reason that there is then also no contract between us which indicates that I have any contractual obligations that I need to fulfil towards them either, such as the payment of a levy.
6. If I am contractually obliged to pay a levy, the Kleinbron Estate HOA and Mr Alex van Niekerk is to please indicate whether the contract which states so is in writing or oral and when, where and by whom it was concluded and, if the contract is in writing, that they will forward a copy thereof to me.

7. Since the Kleinbron Estate HOA has been charging me a levy through Osro Property Managing Agents since August 2019, despite them suggesting there is no contract between us, the Kleinbron Estate HOA has apparently been charging me for nothing, and they owe me a refund.
8. Despite the Kleinbron Estate HOA and Mr Alex van Niekerk suggesting that there is no contract that they have to uphold, there is a contract, in which they indicate they will provide me with security and gardening services, among other things.
9. It seems that, when the Kleinbron Estate HOA requires action from me (e.g. to pay a levy), they try to enforce the contract. They have even conveniently attempted to change the contract to try and force me to do certain actions (e.g. to force me to remove my CCTV cameras as will be discussed below). But when I require action from the Kleinbron Estate HOA (e.g. security and gardening services), they pretend as though there is no contract.

SECURITY SERVICES

1. I have repeatedly indicated to the Kleinbron Estate HOA and Mr Alex van Niekerk that I am being harassed by my neighbours, and I have asked for their security services to assist me.
2. They have refused, and have instead sided and worked together with the people who are harassing me.
3. They are providing the opposite of security services to me.
4. I obtained an interim protection order against one neighbour who has been harassing me, and he responded by applying for a protection order against me in return, which was based on concocted and made-up allegations.
5. The neighbour submitted an alleged security report from SJC Security, Kleinbron Estate's security services, to court for his application for a protection order against me.
6. The SJC report alleged that I am paranoid and unfit to carry a firearm.
7. I contacted the Kleinbron Estate HOA, Mr Alex van Niekerk and SJC Security to verify the authenticity of the report, but neither of them replied.
8. My firearm has been confiscated as a result of the neighbour's protection order application.

9. After my house was vandalised, I installed CCTV cameras. I informed the Kleinbron Estate HOA and Mr Alex van Niekerk that I was going to install them, and I invited them to the installation. They did not come, but after my cameras had been installed, the Kleinbron Estate HOA and Mr Alex van Niekerk demanded that I remove them.
10. When I did not, the Kleinbron Estate HOA and Mr Alex van Niekerk referred three of my neighbours to make CSOS cases against me regarding the cameras, and after CSOS found in my favour all three times, the Kleinbron Estate HOA also made a CSOS case against me, and CSOS again found in my favour.
11. The Kleinbron Estate HOA and Mr Alex van Niekerk are making a concerted effort to decrease my security and have attempted to bully me through time-wasting legal processes and other means to do so.
12. The Kleinbron Estate HOA contract indicates that they provide security services. But later the Kleinbron Estate HOA and Mr Alex van Niekerk emailed me and indicated that homeowners are responsible for their own security. When I installed CCTV cameras to increase my security, the Kleinbron Estate HOA and Mr Alex van Niekerk tried to force me to remove them. When I got a firearm to increase my security, the Kleinbron Estate HOA apparently said I am paranoid and unfit to carry it.
13. According to the contract, the Kleinbron Estate HOA is responsible for my security. But when I ask the Kleinbron Estate HOA to ensure my security, they say I am responsible for my own security. When I take responsibility for my own security, the Kleinbron Estate HOA and Mr Alex van Niekerk tells me I may not take responsibility for my own security, and they make every attempt to prevent me from ensuring my own security.
14. The SJC report was written in December 2021, so it is reasonable to assume that a security company that has apparently indicated that someone is paranoid and unfit to carry a firearm is not taking, and is not going to take, any security complaints from that person seriously.
15. The Kleinbron Estate HOA and Mr Alex van Niekerk have also removed my wife's father from their access control system when he was registered as a resident, without prior notice to us, as per the contract.

GARDENING SERVICES

16. Kleinbron Estate has not cut the grass in my backyard since April 2022.
17. Their garden attendant suddenly one day indicated that I had to pick up my dog's mess first before he would cut the grass.
18. Despite the gardening services having picked up my dog's mess before, and despite Kleinbron Estate advertising itself as a luxury security estate, and homeowners having a reasonable expectation that the garden attendants would pick it up before cutting the grass, the garden attendant refused to cut the grass until I picked up the dog's mess, which I refused to do, and they have not cut my grass since then.

LEVIES

19. Since the Kleinbron Estate HOA and Mr Alex van Niekerk does not seem to acknowledge the contract they have with me, and since they continue to refuse to render the performance due to me according to the contract, even after I have provided them with an opportunity to remedy the breach and after I have initiated legal action against them for it (the letter of demand was sent on 16 January 2023), the Kleinbron Estate HOA and Mr Alex van Niekerk has continued to repudiate and breach the contract, by their inaction proving that they do not have any intention to fulfil their duties in terms of the contract.
20. The Kleinbron Estate HOA should have provided security and gardening services to me, which they continue to refuse to do, yet they demand a levy from me as though they do. I have given them numerous chances to remedy their breach, but they continue to refuse to do so.
21. Kleinbron Estate has continued to cut the grass in front of my house, but the appearance of the grass in my front yard is more of interest to Kleinbron Estate than it is to me, since Kleinbron Estate markets itself as an aesthetically appealing estate, and tidy lawns in front of the houses ensure higher property values and levy amounts.
22. Kleinbron Estate allegedly provides access control to the estate, but it appears as though Kleinbron Estate is allowing people into the estate that are involved in harassing me. Therefore their access control is not increasing my safety at all.

23. I have dutifully upheld my side of the contract for the past 4 years, despite the Kleinbron Estate HOA and Mr Alex van Niekerk repeatedly breaching their side of the contract.
24. I even continued paying my levy, knowing that the Kleinbron Estate HOA was not providing the services that I was paying them for.
25. I have made various attempts to improve my quality of life while living in Kleinbron Estate, and I spent over R300 000 to repair and renovate my property.
26. The Kleinbron Estate HOA and Mr Alex van Niekerk seems to have made every effort to decrease my quality of life, and to make it as difficult as possible for me to live here.
27. It seems as though the Kleinbron Estate HOA and Mr Alex van Niekerk are all too eager to receive financial benefits at the expense of others.
28. I contend that the way that the Kleinbron Estate HOA and Mr Alex van Niekerk has acted towards me, and the way in which they appear to have purposefully breached their contract with me was in order for them to exert pressure on me to relocate and to sell me house under market value, so that they can resell it at a higher price and make a profit.
29. I contend they plan to do so with any future occupants of this house as well.
30. I contend the Kleinbron Estate HOA attempted to decrease my security and do not provide security or proper access control and allow harassers to freely enter the estate to harass me to coerce me to sell my house and relocate.
31. I contend the Kleinbron Estate HOA stopped cutting the grass in my back yard to decrease the value of the property, and to coerce me to relocate.
32. I contend the Kleinbron Estate HOA is not taking any action to prevent my neighbour and other people from harassing me when I go out of my house, even when I just go out into my own backyard, in order to coerce me to relocate.
33. I contend that the Kleinbron Estate HOA is interfering with the contractors who work at my house, so that they will not do the work correctly, in order to ensure that my property's value does not increase, to coerce me to relocate, and for me to sell my property at a lower price.
34. I contend that the Kleinbron Estate HOA is extorting money out of me through charging levies, but then by withholding services from me, and threatening me

with a zero tolerance approach if I do not pay the levy, and threatening me with legal action and to report me to a credit bureau to coerce me to pay.

35. I contend the Kleinbron Estate HOA have identified other houses in the estate as easy targets for harassment as well, and that they profile people who want to move into the estate to identify people who may be easy targets, such as first time home-owners and people who are starting a family, and they are harassing the owners and residents of those other houses in the same way as they are doing to me.
36. Despite the contract that I have with the Kleinbron Estate HOA indicating that homeowners are not able to cancel their membership of the HOA while they are homeowners in the estate, the Kleinbron Estate's HOA's continued repudiation and breach of the contract justifies that the contract and any other agreements between the Kleinbron Estate HOA and my wife and I to be rescinded.
37. Due to the Kleinbron Estate HOA's repudiation and breach of contract, I refuse to make any further payments to the Kleinbron Estate HOA anymore, including a monthly levy, special levy, or any other payment.
38. The Kleinbron Estate HOA has already been unjustly enriched by receiving money from me and not providing services to me.
39. The Kleinbron Estate HOA made an unreasonable increase to the levy in March 2023, and I refused to pay the amount that was over the reasonable amount.
40. The Kleinbron Estate HOA continued charging me the unreasonable amount and placed my account in arrears. I dispute that my account is in arrears. I demand that the Kleinbron Estate HOA make my alleged "arrears" account zero.
41. I consider my balance with the Kleinbron Estate HOA settled in full.
42. I also refuse to be subject to any other demands and one-sided contract changes and arbitrary new rules made up by the Kleinbron Estate HOA and Mr Alex van Niekerk that are designed to oppress me and manipulate me to act in a certain way for their own benefit.

Yours faithfully,

A handwritten signature in black ink that reads "Fitchat". The letters are connected and have a fluid, cursive style.

RUBEN THEODOR FITCHAT

A handwritten signature in black ink that reads "Fitchat". The letters are connected and have a fluid, cursive style, similar to the one above.

SONET FITCHAT