# [DE] Tenants can object to dummy surveillance cameras

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On 29 January 2015, the AG Frankfurt am Main (Frankfurt am Main District Court - case 33 C 3407/14) ruled that tenants of a flat do not have to accept dummy video surveillance cameras installed by their landlord in either the building lobby or stairwell. The court ruled in favour of a tenant who had felt intimidated and threatened by the dummy devices.

The landlord had originally installed the dummy video cameras exclusively to deter potential criminals. He claimed that, for this reason, combined with the fact that the camera did not work, the tenant's privacy rights had not been breached. However, the court shared the tenant's view that even the threat of being under constant surveillance was sufficient to restrict his freedom of action and that of visitors to his flat. This therefore infringed the tenant's general privacy rights.

Last year, the AG Berlin-Schöneberg (Berlin-Schöneberg District Court), in a ruling of 30 July 2014 (case no. 103 C 160/14), expressed the opposite view. It ruled that general privacy rights were not breached if the landlord told the tenants that the surveillance cameras were dummies.

On 11 November 2013, the Landgericht Frankfurt am Main (Frankfurt am Main Regional Court) stated in an indicative ruling (case no. 2-13 S 24/13) that a property owners' association could not require a flat owner to remove a dummy camera that he had installed on his balcony. Although the installation of the camera had represented a structural change to the jointly owned property, it had not infringed the other flat owners' general privacy rights because the camera had not been working. The mere fear of being filmed by the camera was not sufficient to establish an infringement, according to the Frankfurt court.

In a ruling of 16 March 2010 (case no. VI ZR 176/09), the Bundesgerichtshof (Federal Supreme Court - BGH) stressed that the use of surveillance cameras on properties should be judged on a case-by-case basis. The fear of being watched by surveillance cameras could be justified if, based on concrete circumstances, it appeared understandable, for example, if a dispute between neighbours had escalated or if there were objective grounds for suspicion. In such circumstances, the privacy rights of people who thought they were being watched could be infringed on the basis of the suspicion alone. However, the hypothetical possibility of being watched by video cameras and similar surveillance devices did not on its

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own breach the general privacy rights of people who could be affected.

### *Urteil des AG Frankfurt am Main vom 29. Januar 2015 - 33 C 3407/14*

*Ruling of the Frankfurt am Main District Court of 29 January 2015 - case no. 33 C 3407/14*

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