

Cell Division: A Towering Tempest

Adapted from the writings of Dayan Yitzhak Grossman

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Controversy has been brewing for months over plans to erect cell phone towers in residential areas in Lakewood, first on the Eleanor Levovitz Senior Housing building at 500 Clifton Avenue, and then on the Georgian Court University parking lot at 900 Lakewood Avenue. The four *roshei yeshiva* of Beth Medrash Govoha signed a letter strongly opposing such towers:

These towers do not come free of serious health concerns and risks for the Lakewood community...

We are absolutely opposed to the proliferation of such antennas ***in all residential areas*** (emphasis in original), and according to our opinion it defies Torah Law. All such projects should be terminated immediately, and no similar future projects should be allowed.[1]

R' Yaakov Forchheimer, the senior *posek* of BMG, and R' Mordechai Betzalel Klein, the Satmar *Dayan* of Lakewood, have previously strongly opposed the Eleanor Levovitz tower as well:

In a letter to relevant parties, Rav Forchheimer wrote that he was presented with reliable information regarding the real risks of radio frequency emissions which could affect "the health and well-being of the residents situated in the area, including many of my own *talmidim*, as well as numerous *talmidei hayeshiva* and the community beyond." Therefore, Rav Forchheimer concluded, "I am hereby of the opinion that, considering the *halacha* of *chamira sakanta mei'issura*, all involved parties should ensure that this proposed antenna does not become a reality"...

Rav Mordechai Betzalel Klein, Satmar *Dayan* of Lakewood, penned a letter warning of the "tremendous risk for myself, my family, and the entire surrounding residential neighborhood." He adds that "this advancement by the phone company is absolutely criminal according to Torah law and must be stopped," and indicates that "if, Heaven forbid, this antenna receives permission to proceed, I am prepared to seek a new and safer locale." Rav Klein asks anyone who can to please help influence the "powers involved" to change their decision.[2]

In this article, we discuss the question of whether residents of a neighborhood have a halachic right to object to the placement of cell phone towers in their vicinity.

Danger

It is surely unobjectionable that things involving "serious health concerns and risks" and "real risks" to "the health and well-being" of others are to be avoided, but it is far from clear that cell phone towers do indeed entail such risks. None of the aforementioned *rabanim* cite any basis for their contentions of the dangers posed by cell phone towers; the *roshei yeshiva* don't cite a source, and Rav Forchheimer cites unspecified "reliable

information.” While cell phone towers have admittedly “not...been proven to be absolutely safe,” according to the American Cancer Society, there is also “no strong evidence” that they cause “any noticeable health effects”:

At this time, there’s no strong evidence that exposure to RF waves from cell phone towers causes any noticeable health effects. However, this does not mean that the RF waves from cell phone towers have been proven to be absolutely safe. Most expert organizations agree that more research is needed to help clarify this, especially for any possible long-term effects.[3]

Further, as we discussed in this column a couple of years ago,[4] there is apparently a dispute between R’ Moshe Feinstein and R’ Yosef Shalom Elyashiv, both writing in 5741 (1980-81) in the context of smoking in public places, about whether the principle that “Hashem protects the simple” (*shomer pesa’im Hashem*)[5] legitimizes behavior that is potentially harmful to others. While R’ Moshe apparently maintained that it does not,[6] Rav Elyashiv holds that it does, arguing that

Despite the fact that contemporary physicians had determined that (secondhand) cigarette smoke has “undesirable” consequences and can be a “serious cause” of certain illnesses, this information was not yet well known and had not yet become widely assimilated, and since many people smoke from youth to old age and are nevertheless in excellent health, smoking falls within the category of “Hashem protects the simple.”[7],[8]^[8]

Further research is called for, but this author suspects that the evidence available in 5741 for the danger posed by secondhand smoke (Rav Elyashiv describes the danger as having been determined (“*kav’u*”) by contemporary physicians) was greater than that available today for the danger posed by cell phone towers, and yet Rav Elyashiv rules that the principle of *shomer pesa’im Hashem* applies and there is accordingly no prohibition against smoking in public places. (He does, however, recommend that smokers go beyond the letter of the law and refrain from causing suffering and emotional distress to others.)

Fearing fear itself

The one published halachic discussion of cell phone towers of which I am aware is by R’ Yitzchak Zilberstein.[9] As we wrote in the aforementioned column:

R’ Yitzchak Zilberstein, discussing neighbors who object to their neighbor’s installation of a cellular antenna on his property on the grounds that “some claim that the antennas cause illnesses,” proposes a remarkable and radical extension of the laws of *nizkei shcheinim*: Although the objective harmfulness of such antennas has not been conclusively demonstrated, “saving people from fear is a great thing,” and insofar as people are scared of living near such antennas, *this itself* is considered *hezeik*.[10]

As we noted, this idea of Rav Zilberstein is obviously a remarkable and radical extension of the laws of *nizkei shcheinim*, with little basis in the classic sources on the topic.

Reduction in value as a tort

Prior to his concession that the danger has actually not yet been demonstrated (*hanezek od lo muchach*), Rav Zilberstein does indeed argue that the residents of the area have the right to object on the grounds of the “lethal danger” (*sakanas mavess*) posed by the antenna, “and particularly since it reduces the value of apartments, which constitutes direct damage (*nezek yashir*), and is considered ‘his arrows’ (*giri dilei*).”[11] But the suggestion that actions that reduce neighborhood property values constitute *nezek yashir* and *giri dilei* is incorrect. This question was first discussed by the Rosh, who declares, in a seminal *teshuvah*, that all the requirements in the Gemara to “distance oneself” (i.e., to refrain from or modify conduct injurious to one’s neighbors) apply only to conduct that causes actual damage to the neighbors’ property,

But someone who builds within his own property, in order to improve his assets, and does not actually damage the property of his fellow man but merely reduces its value, in such a case the Chachamim did not obligate him to distance himself...[12]

Perhaps even Rav Zilberstein does not mean that the reduction of property values constitutes grounds, in and of itself, for objection by the neighbors, but means only to invoke the reduction in property values as a supplementary consideration to the objection on the grounds of objective danger.

[1]BMG Roshei Yeshiva Vehemently Opposed To Cell Towers In Lakewood Residential Areas. Matzav.com.

<https://matzav.com/bmg-roshei-yeshiva-vehemently-opposed-to-cell-towers-in-lakewood-residential-areas/>.

[2]Lakewood: Movement Underway to Halt 6th Street Verizon Antenna. Matzav.com.

<https://matzav.com/lakewood-movement-underway-to-halt-6th-street-verizon-antenna/>.

[3]

<https://www.cancer.org/cancer/cancer-causes/radiation-exposure/cellular-phone-towers.html>.

[4]Safe Mode. Sep. 3, 2020.

[5]*Tehillim* 116:6.

[6]Shu”t Igros Moshe C.M. *cheilek* 2 *siman* 18.

[7]*Tehillim* 116:6.

[8]Koveitz Teshuvos *cheilek* 1 *siman* 219, cited in Nishmas Avraham (second expanded edition) Vol. 4 (C.M.) p. 45. Whether Rav Elyashiv maintained this position over the subsequent decades of his life or whether his position evolved as a result of increased awareness of the deleterious consequences of smoking is not relevant to our discussion here.

[9]R’ Yehudah Stern published an article titled *Drishat Shcheinim Lesiluk Gag Asbest O Antenna Cellularit* (Kikar Shabbat, 5 Shvat [5]780 (Jan. 31, 2020) 11:01), but it comprises just a survey of the relevant sources on the general halachic topic, with no direct application to the particular case of cell phone towers.

[10]Chashukei Chemed Bava Basra p. 170 s.v. *Uvelav hachi*.

[11]Bava Basra 25b.

[12]Shu"t HaRosh *klal* 5 *siman* 3, cited by Rama C.M. 171:1. Cf. Shu"t Bais Efraim C.M. beginning of *siman* 26 s.v. *Velachein nlan"d*, s.v. *Vezev mevuvar*; Shu"t Bais Yitzchak C.M. *siman* 40; Piskei Din Mibais Hadin Ledinei Mamonos Ulevirur Yahadus Shel HaRabbanut Harashit LiYerushalayim, Vol. 1 p. 206 (but cf. Vol. 4 p. 115).

The Chasam Sofer, in his Teshuvos O.C. *simanim* 26 (s.v. *Shoresh*) and 29 (s.v. *Vehinei amad bazeh*) (cited in Pis'chei Teshuvah *ibid.* s.k. 1) and his *chidushim* to Shulchan Aruch *ibid.* seems to have understood the Rosh differently, but his understanding is quite difficult to square with the Rosh's language, as noted in Eimek She'eilah O.C. *siman* 2.