

## If I Make a Pool in My Backyard, Can I Force My Neighbor to Close Off an Existing Window in His House?

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**Question:** Chaim is building a pool in his backyard. His neighbor has an existing window that faced his yard. Now that the swimming pool is being built, the window will overlook the pool.

Until now, when it just provided a view of the backyard, the window was no big deal. Now that he is making a pool, however, Chaim wants to force his neighbor to either close off his window or pay for a mechitzah to block the view of the pool. Is he able to do this?

**Answer:** The general rule regarding *hezek riya* is that if a window is facing a neighbor's yard for a few years and he doesn't complain, a *chazakah* is established and the window is permitted to remain as it is. Some Poskim hold that even if someone opens a new window and his neighbor doesn't say anything, a *chazakah* is established to allow the window to be there. However, it seems that the halacha would be different in this case because the neighbor's window did not really harm Chaim until this point. Until now, it was only facing a backyard and, as we previously stated, the common *minhag* seems to be that we do have windows overlooking other people's yards. Accordingly, it is understandable why Chaim did not object until now, which means that the neighbor did not establish a *chazakah* to do anything that might harm Chaim. Now that Chaim is making a swimming pool, and there is an issue of genuine *hezek riya*, he could force the neighbor to pay for a mechitzah or to close off his window.