

If someone Buys a House That Has a Window Facing a Neighbor's Yard, Is He Obligated to Close It Off?

Rav Shmuel Honigwachs

Question: Reuven bought a house in a development. When he moved in, he noticed that the house he bought already has a window that overlooks his neighbor's backyard. Does he have to close off the window or is he allowed to leave it the way it is?

Answer: In the halachos of *hezek riya*, the Halacha will often differ depending upon whom the house was acquired from and the sequence of how it was built.

The Gemara discusses a case where two brothers inherited a property from their father. After dividing it, they are left with windows overlooking each other's yards. The Gemara states that they have no legal right to these windows. The Rishonim debate what this means on a practical level. Some say that the brothers can force each other to close off the windows. Others say that they cannot go that far, rather, they are permitted to build a wall on their own property that blocks the window, even though by doing so they are limiting sunlight to the other property.

The Shulchan Aruch rules that they cannot force each other to seal the windows. Rema cites the other opinion that they can be forced to block the windows. Rema indicates that the same *machlokes* would apply in a case where someone purchases a house that has a window facing a neighbor's yard. Which would mean that according to the Rema, the purchaser can be forced to close off such a window, which is a rather unusual conclusion.

As we've said previously, whenever there is another consideration at play, one can rely on the opinion that our yards are not comparable to the old courtyards because we do not use them for such private matters.

Accordingly, perhaps the buyer could be lenient and rely on the Mechaber's opinion that he does not have to close off his window in this case.