

## Listing a House Above the Appraised Value

### **Rav Yosef Greenwald, Rav of Khal Dexter Park and Dayan in the Bais HaVaad**

**Case:** Housing prices today are rising rapidly and it is very common for sellers to receive offers above their asking price. I know one seller who was told by an agent that he would appraise his house at \$650,000. He decided to list it for \$750,000 in hopes that he could get that price as a result of the housing shortage.

**Question:** Since he is charging above the appraised market price, would that be a problem of *onaah*?

**Answer:** In terms of the letter-of-the-law, there is very little a buyer can claim in such a case. If the market is being driven up due to various factors, that would create a new market price, so one cannot call that *ona'ah*.

To bring out this point, Tosafos suggests that it is possible that the reason that there is a rule that one cannot make a claim of *onaah* on *karka* (land) is because the real estate market is based almost completely on location. It's impossible to pin down a market price for land because the value of a property fluctuates so much depending on where it is located. The same would be true for the housing market. Someone may be willing to pay much more for a house if it is located in an area that is desirable for him (good neighbors, yeshivas...), which would make it impossible to pin down a price in regards to *ona'ah*.

In terms of right and wrong, it is very difficult to say when someone is just exercising his right to make a profit in the current market and when someone is being unscrupulous. That entire discussion is very ambiguous and very relative to the situation. What definitely is true - and is quoted as halacha in the Shulchan Aruch - is that the leaders of a town have a responsibility to create some kind of viable system where things do not get out of hand. That *sugya* is known as *hafka'as shearim* and is definitely the responsible way to protect communities from rapid fluctuations in the market. This is more of a social issue than a specific *ona'ah* issue, but it is very relevant in today's climate.