

## Real Estate Management on Chol Hamoed

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Question: In the previous session, we discussed some general principles concerning the laws of commerce on Chol Hamoed. How do these principles play out in the specific context of real estate management?

Answer: As we mentioned in the previous session, it is forbidden for a Jew to perform (or hire a non-Jewish worker to perform) any actual melachos that are forbidden on Shabbos. Thus, most basic maintenance management or basic cosmetic repairs that can be delayed until after Yom Tov are forbidden. For example, landscaping is not allowed (either for a Jew or his non-Jewish employee) since it involves melachos such as choreish or kotzer and there is no element of *davar ha'avud* (financial loss) involved in delaying it until after Yom Tov.

Parenthetically, it is interesting to note that in a certain sense, the halachos of having a non-Jewish worker on Chol Hamoed are more severe than those of Shabbos. On Shabbos, a non-Jewish worker may perform melacha for a Jew outside of the *techum* (the 2000 amah limit of walking from the edge of the city, since no one will see him there), while on Chol Hamoed this would be *assur*, since there is no prohibition of the *techum*, and Jews are permitted to travel everywhere.

Returning to the details of managing real estate on Chol Hamoed, based on the principle described above, a real estate owner must generally shut down his day to day operations except for dealing with emergencies. Thus, if a tenant leaves, it is *assur* to do anything to fix up or clean the property, such as painting. But if a pipe bursts, it is considered *davar ha'avud*, a matter of financial loss, and it is *mutar* to fix either by hiring a worker paid by the job (*kablan*) or paid by the hour (*sechir yom*).

It is therefore recommended for a real estate owner to tell his manager to consult with him before doing anything, since it is difficult to explain to him the details of what is permitted or forbidden on Chol Hamoed.

Although we mentioned that only emergencies are generally allowed due to the category of *davar ha'avud* and incurring a financial loss, this category is actually not limited to a case of a burst pipe. Rather, any case of potential financial loss is included.

Thus, any case where one might potentially lose a current tenant would be included as a *davar ha'avud*. If a tenant is moving to another apartment in the complex, one has a right to do what is necessary to ensure that he does not choose to move elsewhere. If there is a deadline based upon his moving by which the property must be ready, the owner of the real estate is permitted to prepare the new apartment for him on Chol Hamoed. On the other hand, melacha designed to increase profit, such as to attract new tenants, would not be permitted.

It is not so clear though whether preparations to finish an apartment for a future tenant with whom who has already made an agreement is permitted on Chol Hamoed. Some *poskim* hold it is *assur* even if he will choose to move elsewhere since a future tenant is not defined as a case of loss.

On the other hand, other *poskim* feel that it is permitted since one already

has an agreement with him. In practice, if the real estate owner is concerned that his reputation with the current tenants will suffer if one does not prepare the apartment properly, it would seem to be permitted.