

THE BAIS HAVAAD

HALACHA JOURNAL

Family, Business, and Jewish Life through the Prism of Halacha



A PUBLICATION OF THE
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לע"נ הרב יוסף ישראל
ב"ר משה גרוסמן זצ"ל

Dedicated in loving memory of
HaRav Yosef Grossman zt"l

VOLUME 5782 • ISSUE XLIII • PARSHAS EIKEV



CELL DIVISION: A TOWERING TEMPEST

Adapted from the writings of Dayan Yitzhak Grossman

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

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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.



PARSHAS EIKEV

NOT RIGHT

Excerpted and adapted from a shiur by
Dayan Yosef Greenwald

And you shall place these words of Mine upon your heart and upon your soul, and you shall tie them as a sign on your arm (*yedchem*), and they shall be as ornaments between your eyes.

Devarim 11:18

The Torah does not explicitly say on which arm *tefillin* are to be placed. There are two sources for the *halacha* that they go on the left. The first is that *yadcha* (in Parshas Va'es'chanan, referring to *tefillin*) alludes to "*yad kei'ha*," the weak arm. The second is that the *pasuk* says *tefillin* go upon the heart, which is on the left side.

What about a left-handed person, whose right arm is the weak one? According to the Me'iri (Shabbos 103a), he puts *tefillin* on his left, just like everyone else. (He notes that this is different from other *halachos* that require the right hand, where a lefty uses his left.) A similar position is taken by the *mekubalim* (Sha'arei Teshuvah O.C. 27:11). This is very difficult to understand, as the Gemara (Menachos 37a) explicitly states that a lefty places *tefillin* on his right arm, his own *yad kei'ha*.

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Precocious *Pruzbul*

Q There are people that owe me money, so I want to write a *pruzbul* to prevent the cancelation of the loans at the end of Shmitah. May I do so earlier than Erev Rosh Hashanah?

A If a loan was made after a *pruzbul* was written, it is not covered by the *pruzbul*. The *pruzbul* makes it as if you turned your loans over to *bais din*, and you cannot hand over that which doesn't yet exist, so another *pruzbul* will need to be written for the new loan. That is why

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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}

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

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 Kovetz 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.

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

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 *kial 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 mevuar*; Shu"t Bais Yitzchak C.M. *siman 40*; Piskei Din Mibais Hadin Ledinei Mamonos Ulevivur 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 Pischei Teshuvah *ibid.* s.k. 1) and his

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the *pruzbul* is customarily done on Erev Rosh Hashanah, to include all loans issued through that time.

Usually, a contract may be postdated but not predated, because a predated *shtar* can injure *lekuchos* (purchasers of ostensibly encumbered property). *Pruzbul* is the other way around: It may be predated but not postdated, because a predated *pruzbul* covers less than what it may, but a postdated one could be used fraudulently to cover more than it may.

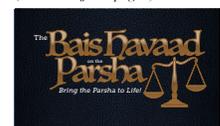
If a store owner sells merchandise on credit after writing an early *pruzbul*, he can prevent cancellation of the loan by setting its repayment date after Rosh Hashanah. (Loans are only canceled at the end of Shmitah if they are already due, or if no specific due date was set.) According to Rav Elyashiv, the due date may be extended without the knowledge of the borrower. *Lechat'chilah*, that should be done before two valid witnesses, and if that's not possible, it should be done with two invalid witnesses. *Bediaved*, it's effective with no witnesses at all.

According to the Igros Moshe, no *pruzbul* is necessary if a loan is repaid with a check dated after Rosh Hashanah. If the check is dated before Rosh Hashanah, *poskim* dispute whether it is subject to *shmitas ksafim* or not.

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.

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*.

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Perhaps one must explain the Me'iri and the *mekubalim* to be referring to an ambidextrous man, who does not have a *yad keiha*, and

saying that he should follow the secondary source and place his tefillin opposite his heart, on his left.

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