

Choshen Mishpat Review Bechinah

Hilchot Nizke Shekhenim (153-156)

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Directions

Answer each question in a paragraph or more, citing the relevant Gemaras, Rishonim, Shulchan Aruch, Nosei Kelim, and Shu"tim; not everything will immediately seem related if you haven't learned some contemporary Acharonim.

Rabbi Bleich sometimes asks questions that are not immediately on the page of the limud to see how you would think about it given what you know. Even if you never learned about the specific circumstances the question is asking about, you can most probably intuit the two tzedadim of the case and suggest what the Halacha would be according to either side based on the relevant information from our limud. Sometimes, a specific source in Acharonim is provided to facilitate further research.

Other than from my own learning, the questions and answers below come also from various websites such as BusinessHalacha.com, Yorucha.com, and Mi Yodea. Due to lack of time, the answers are brief, but that does not absolve any of us from knowing all the details that were omitted and having them ready for this Bechinah or the final in Shamayim.

The limud/Bechinah goes until 156, but I was only able to write through 153 and 154 before seeing the Bechinah.

Questions & Answers

Siman 153 – Ziz, Tzinor, Sulam, and Kotel

Ziz Questions

Reuven's home is adjacent to Shimon's yard, and there are no windows from the building looking into the yard. For all purposes, the back wall of Reuven's home that face's Shimon's wall will be known as "the wall." (*Shulchan Aruch 153:1-4, SMA, GRA*)

1. Reuven installed nails in the wall to hang an Israeli flag with gromets
 - a. Was that allowed?
 - b. Is there a point that Shimon can protest? If so, what can he say?
 - c. Can Shimon remove the nails?
 - d. Can Shimon use the nails to hang an American flag, volleyball net, or clothesline?
 - e. Can Shimon build below, above, or in front of the nails?
 - f. What, if any, of the above actions of Shimon can Reuven protest?
 - g. What if the nail is towards the end of the wall and going to be used to connect an Eruv line?
2. Can Reuven install a TV antenna/satellite dish that overhangs onto Shimon's space from the top of the wall?
3. Can Reuven put a telescope on his roof and point it out over the wall?
4. How long does it take to establish a chazaka? What does one have to do and/or say?

Marzev/Tzinor Questions

5. Can Reuven add a gutter to his roof and have it empty into Shimon's yard? (153:6)
6. Is Shimon allowed to use the water? Can Reuven come back and take some if he wants? (153:6)
7. Can Reuven switch the opening from one end of the room to the other (on the same side), extend it further into Shimon's property, or raise it higher? (153:6)
8. What if the gutter or house falls. Does anybody retain or regain any rights? (153:6)
9. Can Shimon stop Reuven or make any changes of his own? (153:7, SMA, Shach)
10. Reuven's air conditioner drips onto Shimon's property. Can Shimon put a bird feeder underneath it to use the water? (153:8)
11. Given watching all these neighborly disputes has proven frustrating, can Yehuda direct his gutters to drain into the street instead? What claims can the public make against his initial or for his continued draining? (153:9)
12. Once one has a chazakah to empty his gutters on his neighbor's property, can he modify the flow in terms of speed or number of outlets? What about raising or lowering the height of the outlet? (153:10-11)
13. Zevulun is a rebbe in a yeshiva and often hosts vaadim in his home for the bachurim and serves lots of nosh.
 - a. He usually can't fit all the garbage bags in his own trash cans and puts one of his overflow garbage bags in Levy's extra trash can on pick up days. If he has more guests than usual one night, can he put more bags in Levy's can? (153:12)
 - b. Reb Zevulun also has a dozen bahurim and guests sleeping over every Shabbos. Can Levy complain that all these guests showering, washing their hands, flushing the toilet, etc. are filling up the septic tank too fast and causing backups? (153:12)

Sulam

14. Yaakov's house is very close to Eli's house, and Yaakov wants to do some work on his roof for the next few months. Can Yaakov put a 20-foot ladder in Eli's backyard for easy access to his own roof? Can Eli protest verbally or take action? (153:13)
15. Can Yaakov's kids put a step ladder against Eli's side of the fence to make a secret shortcut to their backyard? (153:13)

Kotel/Buildings

16. Reuven builds a wall on the side of his property adjacent to Shimon. Can Shimon use the side of the wall that faces his property? If he's been using it partially for a month already, what are the limits in expanding his usage if any? (153:16, 18)
17. You claim you weren't mochel to a neighbor, and a neighbor claims you were. What's one winning factor in resolving the dispute? (Pitchei Teshuvah 153:3)

18. Ari puts up a sukkah on his mirpeset every year, but, now, his upstairs neighbor Giyora decided to build a mirpeset extending out of his apartment and block Ari's airspace. Can Ari stop Giyora from building the mirpeset? (*Ateret Devorah*)
19. Yiskah's family puts up a sukkah in the front lawn of their apartment building every year, but this year a neighbor who has been living there for a while decided to beat them to it and took up all the space with his sukkah. Who has the right to the space? (*Pitchei Choshen*)
20. The Yafeh family puts up their sukkah every year on Tzom Gedaliah right in front of the Apfel family's bomb shelter window. Lately, the Apfel's decided to use the shelter as an office. Can they ask the Yafeh's not to put their sukkah up so early?

Compare/Contrast

Broad summary questions to gain a comparative/contrasting perspective:

1. How long does it take for each of these [ziz, marzev, sulam, beams in a kotel]
 - a. to develop a chazakah?
 - b. Lose the chazakah if it breaks or is removed?
 - c. Can the other side be mocheh, remove it, or use it?
 - d. Elaborate the Rama's view exactly. (*SMA 153:32*)

Siman 154 – Chazakot on Windows and Entrances

Ribui Diyurim

1. Can one split an apartment into multiple units on the same floor?
2. Can one combine two apartments either adjacent or one on top of the other?
3. Can one rent out a bedroom in his house or apartment as an airBNb?
4. Can one buy up old houses, renovate, and convert them into multifamily residences?
5. Can one buy two houses that share a backyard and attach them to create a large mansion?

Hezek Reiyah

1. Can Reuven open a window from his house into his adjacent neighbor's backyard? (153:3)
 - a. If the neighbor is Jewish?
 - b. If there are other windows already facing the yard?
 - c. If he shares the yard with other neighbors already?
 - d. With his neighbor's permission?
2. Can one house be built with doors and windows facing those of homes adjacent to it or across the street? What if he has permission? Is there any justification for apartment unit front door directly facing that of a neighbor? (153:3)

No, Yes if RHR in between, Doesn't matter, very hard to justify. Pitchei Choshen Perek 14 fn 4 unsure.

3. Two friends buy adjacent properties and are sharing blueprints with one another. Reuven's property is only one lot, but Shimon's is really two lots that extends much further back than Reuven's. Reuven points out how Shimon's planned windows are opening directly into his and that Shimon should move his whole house back by a couple feet to avoid this. Shimon says that he was hoping to fit a swimming pool in his back yard and doesn't want to take away from the needed space for that to happen. Resolve the dispute. (153:3)

Either a smaller swimming pool is not called זה לא חסר or it is. Have to ask a realtor which one will add more property value – a few extra feet in the front yard or in the back yard pool. Otherwise, Peshara.

4. Can the booming Orthodox community on the rise in Outoftownsville buy a house with a front door that faces another front door to convert it into a shul? (154:3)

Compare/contrast to a storefront. Pitchei Choshen Perek 14 Seif 14.

5. Can Miri Pessin build a balcony to her home if it'll block her neighbor's view of the sunset? (154:3)

Tosafot Bava Batra 8a, Maharalbach (in PT 8) vs. Mabit, Pitchei choshen 6 14 fn 56

6. Can glass walls block Hezek Reiyah? (154:4 PT 9)

Maybe if they're opaque.

7. You bought a multifamily house and want to combine them. Can you close off the two front entrances and make one larger one facing the street? (154:4)

Seemingly, a larger doorway would be prohibited, but if it's facing the reshut harabbim, anyway, it's fine.

8. Yosef is splitting a residential home into a multifamily which includes splitting the living room down the middle and putting two smaller windows in place of one large one. Can the across the street neighbor protest? (154:4, 13)

*If there wasn't a RHR in between, yes, but there is, so no.
See Shach 8 that a window is like a doorway for these purposes.*

9. The university has, Baruch Hashem, finally realized that it's its duty to fix the egregious errors made in building the library building (and in the renovations, too!) by starting with switching the front and emergency entrances, so that the front entrance is on Amsterdam and the emergency exit is on 185th, instead of the way it is now. This entails completely demolishing and reconstructing each

entrance. Can the students in the Morgenstern dormitory complain? Could they have complained in the 2014 renovation in which walls were knocked down and replaced with windows? (154:5, 13)

*Lichaorah it's not petach keneged petach when you own both.
Here, RHR doesn't help the windows, because they are above street level.*

10. Can your next-door neighbors open a window from their high ceiling den facing your backyard? (154:6)

No. Might peep over.

11. Bediavad that these windows were opened illegally, is there any legal recourse? Is there any urgency? (154:3, 7)

Yes, be mocheh for it to get closed or else he'll get a chazakah. Machloket how long it takes to get a chazakah and if one can even make a chazakah here. Machloket beda'at haRama.

12. Can the violated party be mochel? Can he take it back? (154:7)

13. If one has a large window facing his friend's property, can remove the window and build a porch extending from that spot?

Pitchei Choshen – lichaorah no, because it's increasing his view range

14. If two neighbors lived adjacent to each other for three years without a dividing wall in between, can one protest if the other tries to finally build a dividing wall? (154:8)

15. What size, height, and type of windows can get a chazakah? (154:10)

16. If one opened a window into his friend's property with the requisite permission and that window's wall fell, can the wall be rebuilt with the window? (154:9)

17. Benny the builder bought an old boarded up house to fix up and sell, but the neighbors say he can't remove the boards from the windows, now that they have a chazakah to use their properties without anyone watching. Can Benny fix and open the windows? (154:30)

18. Can the violated party protest his neighbor's window later, claiming that he didn't protest until now because it wasn't relevant for whatever reason?

19. To what extent can one protest a neighbor's currently harmless activities due to their potential to cause him harm or inhibit his freedom in the future? Give a few examples of scenarios with differing outcomes. (154:16)

20. To what extent does a Jewish owner inherit the chazakot or lack thereof of a previous, non-Jewish owner?

Blocking Light

21. Can one build a wall in front of his neighbor's window?
22. Can one build a wall adjacent to his neighbor's
 - a. Window? (154:23)
 - b. Skylight? (154:25)
 - c. Chatzer? (154:26)
23. Bediavad, does he get a chazakah in the above cases? (154:10)
24. What about two adjacent walls sandwiching in his window? (154:23)

SA vs. SMA & Shach

25. Can he offer to relocate the windows? At one point can the homeowner not refuse? (154:13)
26. Your neighbor is building a new mirpeset. Which of the following claims can you make to protest and why?
 - a. Blocking my sunlight
 - b. Blocking my view of the sunrise
 - c. Blocking my view of the busses
 - d. Blocking the breeze
 - e. Blocking my sukkah (if it's above)
 - f. Ribui diyurim

Siman 155 – Harchakat Nezikin

1. Can one open a pizza shop in a storefront underneath residential apartments or multifamily homes? If a fire breaks out due to an oven malfunction or oversight, is the owner Chayav? (155:1)

Discuss if the general din is any different nowadays

2. Can Brachi put an above ground pool in her backyard without professional help if her neighbors are afraid it will leak into their property?
3. Rabbi Elyakum likes to have a kumzits in his home on Thursday nights lekavod Shabbos; Leil Shabbos, for Oneg Shabbos; Motzei Shabbos for Melaveh Malka; and Tuesday night for Vaad with his shiur. Can the neighbors force him to end at a certain time so they can sleep at a reasonable hour?
4. Kollel Town, USA has lots of nappers – yungelite who rest during the day between sedarim. When a new family wants to move in but first renovate the property, the construction basically kills the nap and, by extension, second seder. Can the Union of Avrechim of Kollel Town protest the construction?
5. Cassie Neyberg does not like how her neighbor Ilan's tree is overhanging into her property. Can she cut down the overhanging branches? Who has to pay for the arborist?

6. Reuven's mirpeset is on top of Shimon's bedroom. A leak develops in the floor/ceiling. Who has to pay for the repairs?
7. Every bachur loves Golan Heights, so much so that renting the apartment directly above seems like the best idea for Shanah Rishonah. Eventually, the fleishig aroma gets a little too much for Shalom Bayis. What can be done to save the marriage? Does the new couple have a claim against Golan?

Siman 156 - Yored le'Umanuto Shel Chavero

1. There's already one pizza store on the ground floor of the apartment building. Can someone else come and open another?
2. The local Judaica shop in Outoftownsville, USA sells all the STAM, Sefarim, Judaica, etc. the community needs. Does Amazons increasing reach count as having non-Jewish merchants around such that a new Sofer can move into town?