



# A Lot of Learning

Everyone there knew what the meeting was about — only a week before opening day, and Chayeinu Day Camp still didn't have a sports field.

"First of all," Chayeinu's director, Rabbi Katzman, told his head staff, "I want to apologize for getting us into this mess. I had heard about the township's new policy requiring day camps to get permits to use their playing fields, but I didn't hear anything about the limited number of permits being issued. I couldn't believe it when the lady at the desk told me all the permits had already been taken."

"But doesn't she know that you're the Rabbi Katzman — founder and director of the most amazing, awesome day camp in the state? How could she not give us a permit?" bellowed Boomer Lansky, Chayeinu's head counselor. Boomer's reaction proved once again that his nickname was well deserved.

"Calm down, Boomer," Ushie Delman, the assistant director, said drily. "Listen, everyone. Rabbi Katzman and I have run out of ideas. We've tried everywhere — private schools, colleges, resorts.... Most of them don't rent out their fields, and if they do they're asking way too much money. We need to brainstorm. There must be some field out there we can use that's not ridiculously expensive. Think hard, everyone!"

For a few long moments the room was dead silent. Suddenly, Tuli Weiner, the senior division head, screamed, "I got it!" causing Moish Becker, head of sports, to jump a few inches off his chair.

"Hey, you scared me," grumbled Moish.

"Sorry," Tuli said. "But I just thought of this great idea. A couple of months ago I got lost driving on Higgins Road. I ended up turning around when it

became a dirt road. And I remember seeing this really big empty lot over there with no trees on it — just tall grass and weeds. It looked like it had been cleared to construct a big building or something, because through the grass I could see wooden stakes with bright-orange ribbons on them — you know, the kind surveyors use. We could find out who owns that lot and see if he's willing to let us use it. All we'd have to do is mow the grass, smooth out whatever ditches and bumps there might be, and rent a temporary fence, and we'd be in business."

"That is a great idea," Rabbi Katzman said enthusiastically. "Let's go down there today to check it out. If it looks good, I'll go to City Hall tomorrow to find out who owns it."

Once they saw it, everyone agreed the vacant lot was all they had hoped for. It was big and flat and completely empty. When Rabbi Katzman went to City Hall to search the tax role for the lot's owner, he found it was the Morris Greenberg Warehouse Development Company Inc., with an address in Miami, Florida. Through Miami directory assistance Rabbi Katzman got Morris Greenberg's phone number, but when he called there was no answer, not even a machine.



"So that's the whole story," Rabbi Katzman said to Rabbi Berg, an expert in *Choshen Mishpat*. "Believe me; I've tried everything to reach the field's owner. I called the number that directory assistance gave me at least a hundred times. I've asked everyone who lives near the field on Higgins, but all anyone could tell me is that the field's been sitting there like that for as long as they can remember. I looked all over, and there aren't any 'No Trespassing' signs posted. Rabbi Berg,

I'm desperate. Camp starts in three days! Given the situation, can we use Mr. Greenberg's lot as our playing field?"

After a few moments' thought Rabbi Berg said, "I don't see why you shouldn't be able to use the field without permission. Mr. Greenberg isn't using the field in any way right now or, it seems, in the near future. So you wouldn't be impinging on his use."

"Furthermore, you're not planning on digging any holes in his field or anything like that. If anything, you'd improve the field's appearance by mowing the grass. And, as opposed to using someone's vacant building, playing on the field won't wear it down, cause it to look shabby, or subject it to a risk of being damaged in any way."

"And finally, borrowing a vacant lot without the owner's knowledge is not the same as borrowing someone's book or hammer. In those cases, the owner may not want his property moved — even temporarily — to a different and possibly less secure location without his permission, but obviously that's not an issue when borrowing someone's field."

"So there really shouldn't be any reason Mr. Greenberg wouldn't allow you to use his field. Of course, he might be the kind of person who wouldn't let anyone derive benefit from his field no matter what — the kind of person who Chazal say shares a trait with the inhabitants of Sodom. And though he'd be morally wrong, he'd be within his halachic rights to act that way with his field. But we're not required to worry that he's that kind of person. We can assume that he'd be happy to have his property benefit others as long as that benefit doesn't cause him any loss. The *Pis'chei Choshen* in *Hilchos Geneivah*, 8:1, rules this way, citing *Sh"ut Chasam Sofer*, C.M., *siman* 79, and the *Beis Efraim*, C.M.,

siman 49, as sources for this psak. Of course, if possible, in situations like yours one should make every effort to contact the owner before using the property, but you told me you've already done that."

"Okay, so you're saying I'm allowed to go ahead and use Mr. Greenberg's field without prior permission," Rabbi Katzman reiterated, "but now I have another question. Can I assume he'd let me use it for free, since it's just sitting there growing weeds, or will I have to pay rent for the field if I ever find him? I have to admit, I'd agree to pay rent if he demanded it, as long as the price was reasonable."

"The answer to that question can be found in *Choshen Mishpat* 363:6," Rabbi Berg replied. "The *Mechaber* discusses a case of a squatter living in a vacant courtyard which the owner has no intention of putting on the rental market, and the squatter is living there in a way that doesn't cause any loss or damage to the courtyard's owner. The *Mechaber* rules, based on the *Gemara* in *Bava Kama* 20a, that the squatter does not have to pay for the time he stayed there, as long as the courtyard's owner hasn't given any indication that he expects to be paid rent. This is true even if the squatter would normally pay rent for other living quarters if necessary."

"The reasoning behind this ruling is that an unspoken rental agreement between the courtyard owner and the squatter is not clearly evident. It's quite possible that the courtyard owner is the kind of person who would allow the squatter to live there rent-free, since

the owner doesn't consider the courtyard to be a revenue-producing property and there are no foreseeable losses related to the squatter's presence. Furthermore, since the owner didn't incur any losses from the use of his courtyard, the *halachah* doesn't recognize his right to demand any non-contractual, after-the-fact compensation relating to the benefit the squatter had from the owner's property. The *Maharsha*"l, cited by the *Ketzos HaChoshen*, 157 s.k. 11, among others, rules that this is true even though the squatter has indicated that if forced by the owner he would agree to pay him rent rather than leave the courtyard for another place. Although not the majority view, the *Maharsha*"l's view constitutes a valid halachic opinion.

"So," Rabbi Berg concluded, "I believe you've found yourself a free playing field."

"Great," Rabbi Katzman exclaimed. "I can't wait to tell the staff. They'll be thrilled!"

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"Rabbi Katzman, I think I have a great idea for what the camp should learn in *shiur* this summer," Moish Becker said to Rabbi Katzman after hearing about Rabbi Berg's psak.

"What?" asked Rabbi Katzman.

"They should learn all the *gemaros* and *halachos* that have to do with the story behind our playing field," Moish suggested. "You know, using someone's property without permission, and stuff like that. Now that would keep the boys' interest!"

"That's a fantastic idea, Moish!" Rabbi Katzman responded. "The boys will love it."

And that summer, Camp Chayeinu's learning program was the best ever. ■

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**This week's Choshen Mishpat Challenge Question:** If Rabbi Katzman rented out the playing field to another camp, what would that be comparable to? The answer is seven Hebrew words (or its translation) plus a *mareh makom* in *Shulchan Aruch*.

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**Answer to the July 27 Choshen Mishpat Challenge Question:** Any scenario where the *petur* of *be'alav imo* (*Shemos* 22:14) would apply. For example, if Chaim handed his jacket to his cousin and asked him to hold it until after Chaim picked up the cartop carrier and strapped it onto his car, then Chaim would be *patur* because of *be'alav imo*. See *Choshen Mishpat* 346:1. The winner of the \$50 prize was Naftali Schwimmer of Antwerp, Belgium. Congratulations!

E-mail your answer to [contest@businesshalacha.com](mailto:contest@businesshalacha.com), or mail to BHI Contest, 1114 E. 2nd St, Brooklyn, NY, 11230. Correct answers will be entered in a drawing to win \$50! Answers must be submitted by September 12, 2011. The correct answer and the winner's name will be published in *Kinyan Magazine*.