

BUSINESS WEEKLY

under the auspices of
HaRav Chaim Kohn, shlita



Restoring the Primacy of Choshen Mishpat

ISSUE #134 / PARSHAS VAYISHLACH
FRIDAY, NOVEMBER 30, 2012
16 KISLEV 5773

FOR INFORMATION ON
DEDICATING BUSINESS WEEKLY
IN YOUR COMMUNITY,
PLEASE EMAIL
director@businesshalacha.com

STORY LINE

by Rabbi Meir Orlan

Halacha Writer for the Business Halacha Institute

Gas Gouge

Hurricane Sandy, in addition to causing water damage and power outages, also severely disrupted fuel distribution; very few stations had gas. The lines of cars waiting stretched many blocks, and even the lines of people holding jerry cans stretched way down the block!

Noach waited for four hours to fill up. He was pleasantly surprised to see that the price of gasoline remained the same as before the hurricane, even though this was the only operational gas station for miles around. The government had imposed controls to prevent price gouging, requiring the stations to maintain their former prices.

Later in the week, Noach met Mr. Gassner, who operated the gas station.

"It was considerate of the government to freeze the gasoline prices," Noach commented.

Mr. Gassner, however, was furious! "It wasn't fair that the government required us to keep regular prices," he complained. "People went crazy to buy even a small amount of gas, and the supply was so limited. Based on supply and demand, I could have easily charged three times the price. People would have been happy to get anything at all!" Noach was surprised to hear this view.

"It would be interesting to hear what halacha has to say about the price freeze," he said to Mr. Gassner.

"Do you really think halacha has something to say about this?" asked Mr. Gassner.

"I'm sure it does," said Noach. "Let's ask Rabbi Dayan."

"Is there any source in halacha for government regulation of prices?" Mr. Gassner asked Rabbi Dayan when they consulted him.

"This case is reminiscent of a fascinating halacha," said Rabbi Dayan, "which emphasizes the need for control of the market on critical items.

"The Gemara (Bava Basra 90a) states that a person should not earn a profit of more than one-sixth," explained Rabbi Dayan. "This means that if the item cost him \$100, he should not sell for more than \$120, which would provide a profit greater than one-sixth of the sale. This regulation is limited by the Rambam and Shulchan Aruch to items that entail chaye nefesh (staple food items), such as wine, oil, and flour (C.M. 231:20; Pischei Choshen, Ona'ah 14:[28])."

"But what about the store's overhead and labor costs?" asked Noach. "If a store were to charge only 20% above its purchase cost, it would never break even, forget about a profit!"

continued on reverse side

Unusually Strong

Submitted by E. T.

After the hurricane, we received many questions involving objects that caused damage as they were blown into a neighbor's yard, as well as trees falling onto a neighbor's property.

Q: Is one liable if his object caused damage to a neighbor's property?

A: A person is responsible to ensure that his

possessions do not damage another person's property. This responsibility applies if his object causes damage because of his negligence (peshiah). If, due to circumstances beyond one's control, his object damaged another's property, he is exempt from liability. This distinction is best expressed in the following case:

If one placed an object on his roof and it blew off in an ordinary wind (ru'ach metzuyah) causing damage to another's possessions,

the owner of the object is liable for the damages. If, however, the object was blown off by an unusually strong wind (ruach she'einah metzuyah), he is exempt (C.M. 411:1). The reason the owner is exempt in the latter case is that he is not expected to anticipate an unusually strong wind. Therefore, he is not expected to have secured his item so that it should not fall and inflict damage. For this reason, when a strong wind blows down a tree, causing damage to a neighbor's pos-

continued on reverse side

FROM THE BHI HOTLINE

To place your logo here, email logo@businesshalacha.com

Support our Community
FREIGHT AND CUSTOMS
USA CHINA AND ITALY
avraham@valuetrans.com
212-819-0111 Tue-Thurs



ROOFING - SIDING - GUTTERS
Commercial/Industrial/Residential

Tel: (516) 303-ROOF
Fax: (516) 303-7664



GET YOUR FREE SUBSCRIPTION TO BUSINESS WEEKLY - SEND AN EMAIL TO SUBSCRIBE@BUSINESSHALACHA.COM

"The overhead is added to the cost, as well as basic consideration for time and labor," explained Rabbi Dayan. "Thus, if the food itself cost \$100, the proportional share of overhead is \$20, and basic time and labor amounts to another \$5, the base cost is \$125, and the store would be entitled to sell it for \$150."

"But if other, non-Jewish stores don't follow this halacha, it seems unfair to limit the individual's profit," argued Mr. Gassner. "They easily mark up 50 to 100 percent!"

"This halacha applies only when beis din has control over the entire market and can force all the sellers to follow suit," said Rabbi Dayan. "However, if other stores sell as they please, an individual storeowner is not required to curtail his profit margin."

"What about other items?" asked Noach. "Is there any profit limitation for gasoline?"

"The Sma (231:36) explains

that staple food items have a one-sixth limitation, as I mentioned," replied Rabbi Dayan. "Items related to food preparation can be marked up 100% of the adjusted cost, and there is no mandated limit for items unrelated to food."

"So would halacha view the price freeze as a fair regulation?" asked Mr. Gassner.

"As I said, halacha directly limits the profit margin only on food items in a primarily Jewish community," answered Rabbi Dayan. "However, it stresses the importance of legislative control to ensure that staple items are affordable. The Shulchan Aruch adds that beis din is permitted to punish one who price gouges (231:21,27).

"Given the critical need for gasoline under the circumstances," concluded Rabbi Dayan, "it seems appropriate that the government imposed a price freeze to prevent price gouging on gas."

sessions, the owner of the tree is not liable since the damage was caused by circumstances beyond his control.

The only circumstance in which one is liable is if the tree was in danger of falling and the owner was given legal notice of a deadline to remove the tree by a competent legal authority, yet failed to do so (see C. M. 416:1).

The halacha regarding movable objects employs a different set of parameters. In contrast to fixed items like a tree or wall that do not pose a probable hazard, it is necessary to secure movable objects as a precaution so that they are not swept up by the wind and cause damage.

Moreover, there are generally reports of an upcoming storm days, if not a week or more, in advance, and people know that strong winds will blow

objects that are left outside and not secured. Therefore, if someone leaves personal belongings outside when a storm that could move those objects is approaching, the owner is responsible if the wind takes those objects and damages another's property.

Although such a wind is unusual (einah metzuyah), since it was anticipated, the owner is liable. The damage caused is a subset of eish (lit. fire) whose defining characteristic is that another force (wind) contributes to the damaging act of the fire.

Similarly, if the wind throws the unsecured object on a neighbor's property, causing damage to movable or fixed objects, the owner is liable for the damage (C. M. 390:10; see also Shitah Mekubetzes 60a d.h. Rav Ashi and Nachalas Dovid, B.K. 19b).

**PLEASE CONTACT OUR CONFIDENTIAL HOTLINE
WITH YOUR QUESTIONS & COMMENTS**

877.845.8455 :: ASK@BUSINESSHALACHA.COM

Damages #4

Q: While renovating my property, may I break a hole in my neighbor's fence without his permission, with intention to repair it or pay for its repair later?

A: The Shulchan Aruch writes: "It is forbidden to damage another's property (C.M. 378:1)." Some consider damage a form of theft. Just as one may not steal with the intention to repay (348:1; 359:2), one may not damage

with the intention to repay. Some even view a person who intentionally damages as wicked and disqualified from giving testimony.

Others derive the prohibition to damage from the obligation to return lost items. If we are required to protect another's property and return it to him, all the more so (kal v'chomer) we may not damage it (see Pischei Choshen, Nezikin 1:[1]).

Furthermore, it is prohibited to wantonly

damage or destroy even one's own property. This is included in the prohibition of bal tashchis ("do not destroy"). However, if done for a purpose or need, this is permissible (P.C., Nezikin 1:2-3).

Cutting down fruit-bearing trees unnecessarily involves a clear violation of bal tashchis and a potential danger. It is permissible only in certain circumstances; a Rav should be consulted (Pischei Teshuvah, Y.D. 116:6).

MONEY MATTERS

NOW AVAILABLE

All *Business Weekly* stories have been indexed and organized according to the masechta/perek/daf that you are teaching.

Make the gemara come alive for your talmidim and children with scenarios they can relate to.

JOIN OVER ONE HUNDRED REBBEIM IN SCHOOLS AROUND THE GLOBE WHO HAVE ALREADY SIGNED UP TO RECEIVE THE MATERIAL

Currently available: Bava Kama 1,2,3,6,8,9,10 · Bava Metzia 1,2,3,4,5,6,7,8,9,10
plus the Money Matters Q&A series! Much more to come...

To receive the materials, please email classroom@businesshalacha.com

SPONSOR

This week's newsletter has been sponsored

לזכר נשמת

הרב אברהם אליעזר בן ר' משה ז"ל

by Tuly and Tzippy Kaplan

Email sponsor@businesshalacha.com
to reserve your week.

To support *Business Weekly* and the Business Halacha Institute, send your tax-deductible donation to
BHI · 1114 EAST 2ND STREET · BROOKLYN, NY · 11230

WWW.BUSINESSHALACHA.COM