



Business

a project of the Business Halacha Institute

weekly

PARSHAS BALAK

FRIDAY, JUNE 25 2010

VOLUME 1 ISSUE 14

under the auspices of
Harav Chaim Kohn, shlita

STORYLINE

next in line

By Rabbi Meir Orlian, Yerushalayim
Halacha Writer for the Business Halacha Institute

The invitation to the shul dinner announced in bold letters: "This year's guest of honor will be our beloved Mara D'asra, Rabbi Shlomo Davis, in celebration of over forty years of dedicated service to the shul."

Rabbi Davis had come to the community as a young rabbi. After having renewed Rabbi Davis' contract three times, the shul voted to award him a lifetime contract.

However, the rabbi made a shocking announcement at the dinner: "It has been my privilege to serve the shul for over forty years. Due to a medical condition, I will have to retire at the end of the year."

The hot topic of discussion in shul immediately became, "Who will be the next rabbi?" Advertisements were placed in major Jewish newspapers: "Large Orthodox synagogue seeking dynamic full-time rabbi. Please send resumes and references to the search com-

mittee at rabbisearch@rshul.org."

Among the many candidates was Rabbi Asher Davis, the rabbi's son. Although not as dynamic or experienced as his father, Rabbi Asher had notable credentials and had sometimes filled in during his father's absence. Attached to his resume was a letter that read: "It is superfluous to mention the distinction with which my father served the community for over forty years. His dedicated leadership of the shul earned him a lifetime appointment. As such, I am entitled to succeed my father and inherit his position, in accordance with the ruling of the Rama. This ruling applies even in a case of retirement. Respectfully, Rabbi Asher Davis."

This letter puzzled the committee chair, Alan Spiegel. He knew of many other cases in which rabbis retired and their sons did not succeed them. Yet, Rabbi Asher claimed that

this was a ruling of the Rama!

He asked Rabbi Tzedek if the search committee could meet with him, and then emailed its members: "I received a letter from Rabbi Asher Davis claiming that he is entitled to inherit his father's position. Meeting tomorrow night 9:00 PM with Rabbi Tzedek to clarify this point."

Rabbi Tzedek advised them: "There is a major dispute among the poskim as to whether the son of a life-time Rabbi inherits his father's position. Therefore, you are not obligated to appoint him if you prefer someone else, but you should give him special consideration, even if there are others slightly more qualified."

Rabbi Tzedek explained, "The Rambam (Hil. Melachim 1:7) rules that for all appointments of authority, if the son is a worthy successor, he inherits his father's position. The Rama (Y.D. 245:22), citing the Rivash, applies this

continued on reverse side

FROM OUR HOTLINE

Submitted by
H.B. Ostreich

trimming a tree

A tree in our neighbor's yard hangs into our yard, over the patio. We'd like to trim the tree so that we can build our succah on our patio according to halacha. We know from previous experience that our neighbors will want us to use a company that is more expensive than our preferred company.

Q: What if they don't allow us to trim it

as much as we need to? Do we have to use our neighbor's company if they won't pay the difference in price between their choice and our choice?

A: Bava Basra (27b) teaches that if a tree extends into a neighbor's field, the neighbor may trim the branches up until the height needed for a person to raise the

ox-goad he uses to drive his plowing ox. If the tree's branches are very dense (i.e. a carob or sycamore tree), he may cut off all the branches that extend over the property line. If the property is an irrigated field and harmed by any shade, he may cut down all branches that extend over the property line. These rulings are also recorded in Shulchan Aruch (Choshen Mishpat 155:25).

continued on reverse side



**DB ELECTRONICS
DIRECT**
732.901.1280



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

STORYLINE CONTINUED

ruling also to rabbinic positions. And while 'inheritance' typically applies only after death, poskim extend the law of succession to situations where the father is no longer capable of serving. Nonetheless, the issue is not clear-cut for three reasons."

"Why not?" asked Mr. Spiegel.

"First," said Rabbi Tzedek, "a number of achronim disagree with the Rama and claim that the rabinate is not a position of authority, but rather one of instructing Torah and mitzvos. Unlike the crown of priesthood and the crown of monarchy that were awarded to specific families, the crown of Torah is available to all. As such, there is no concept of succession in Torah (Maharshdam Y.D. #85; Magen Avraham O.C. 53:33). However, many maintain – in support of the Rama – that the rabinate nowadays entails not only instructing Torah, but also communal authority, and therefore the son is entitled to succeed his father (Chasam Sofer O.C. #13)."

"What is the second reason?" asked another committee member.

"The Rama concludes that in plac-

es where the common practice is to appoint the rabbi for a limited time or to choose whomever the community wants, they can do so. Since nowadays almost all positions of authority are time-limited and chosen through a democratic process, it is highly questionable whether Rabbi Asher can demand the right to succeed his father. However, it is still proper to give him special consideration, even if others are slightly more qualified."

"And the third reason?" asked Mr. Spiegel.

"According to many opinions, the son is entitled to succeed his father only if he is acceptable to the majority of the people (Rashi Kerisus 5b s.v. b'zman; Avnei Nezer Y.D. #312). Therefore, Rabbi Asher's claim has validity only if he proves to be a serious contender."

FROM OUR HOTLINE CONTINUED

The principle that emerges from these halachos is that one has the right to protect his property. If a neighbor's tree causes damage or inhibits use of his property, one has the right to remove the branches. Therefore, if the neighbor's tree prevents you from erecting your sukkah in the preferred location, you may cut down the protruding branches.

Regarding the payment: that is your responsibility. Even though it's your neighbor's property that's damaging yours, he is not obligated to pay for damage inflicted by his property that he does not cause. Since a tree grows of its own accord, it's not the tree owner's responsibil-

ity to pay for the removal of branches. In the event that the tree owner would prefer a more expensive company than you would choose, the difference between those two prices is his responsibility. You must bear in mind that you may only trim those branches that prevent you from building a kosher sukkah. You may not instruct the tree trimmers to trim the trees to the property line if that is not necessary for you to be able to build your sukkah.

**Please contact our confidential hotline with
your questions & comments
877.845.8455 ■ ask@businesshalacha.com**

MONEY MATTERS

completing the transaction week #7

Q: I am involved in litigation in a Beis Din. I agreed at first to arbitration, but am now convinced that the halacha is on my side. Before the arbitration verdict is given, can I now refuse compromise and demand that the Beis Din rule based on the absolute law?

A: In theory, a person can withdraw his agreement to arbitration until the verdict is given. However, in practice, it is not possible nowadays.

The reason why it is not possible is because at the beginning of the arbitration process, the Beis Din makes a kinyan sudar, otherwise known as chalipin (symbolic exchange) with each of the parties. The secretary or Dayan of

the Beis Din asks each party, in turn, to grasp his handkerchief or take his pen as a symbolic exchange. This act creates a binding commitment to either pay or forego the amount determined by Beis Din (C.M. 12:7). Thus, the agreement to arbitration is finalized through the kinyan sudar.

It is possible to use kinyan sudar as a convenient method to finalize almost any kind of transaction or commitment (195:1).

ACTIVITIES

ONGOING WEEKLY STUDY SESSIONS

Passaic, Monsey, Flatbush, Lawrence, Queens, Montreal,
Chicago, Toronto, Miami

Article publications in 5 major Jewish newspapers • Weekly Halacha Emails
State-of-the-art website with free content on all topics and levels
Seminars • Business Services • Consultations • Mediation **and much more...**

To sponsor a newsletter for \$100,
send an email

to info@businesshalacha.com

TO RECEIVE THIS NEWSLETTER FREE OF CHARGE, EMAIL SUBSCRIBE@BUSINESSHALACHA.COM

All new subscribers will receive a free copy of our popular publication, Money - The Bottom Line, in pdf form

Business Halacha Institute ■ 718.846.2501 ■ www.BusinessHalacha.com