

25 Adar 5777
March 23, 2017



Bava Basra Daf 60

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Mishna

One may not open in a jointly owned courtyard a door facing a door or a window facing a window. [*This is so even when he has established a chazakah; he should make sure that it is a little bit removed from the other in order to preserve the privacy of the dwellings.*] If it was small, he may not make it large. If there was one, he may not make it two. But he may open to a public thoroughfare a door opposite a door and a window opposite a window. If it was small, he may make it large. If there was one, he may make it two. (60a)

The *Gemora* asks: Where are these rules derived from?

Rabbi Yochanan said: It is from the following verse: *And Bilaam lifted up his eyes and he saw Israel dwelling tribe by tribe.* This indicates that he saw that the doors of their tents did not face opposite the other, whereupon he exclaimed: Worthy are these that the Divine Presence should rest upon them!

The *Mishna* had stated: If it was small, he may not make it large. Rami bar Chama understood from this that if the door is of four cubits, the owner should not make it eight because this would entitle him to eight cubits in the courtyard (*for, should the partnership dissolve, one is entitled to the space in a courtyard corresponding to the width of his door*), but if it is of two cubits, he is allowed to make it four (*for he is anyway entitled to four cubits in the courtyard*).

Rava said to him: This is not so, because the other can say to him, “I can conceal my actions from you if you have a small doorway, but not if you have a large one.”

The *Mishna* had stated: If there was one, he may not make it two. Rami bar Chama understood from this that if the door is four cubits wide, he should not turn it into two doors of two cubits each, because this would entitle him to eight cubits in the courtyard (*four per each door*), but he would be allowed to make a door of eight cubits into two of four cubits each (*for he would not have more than the eight cubits he already is entitled to*).

Rava said to him: This is not so, because the other can say to him, “I can conceal my actions from you if you have one door, but not if you have two doors.

The *Mishna* had stated: but he may open to a public thoroughfare a door opposite a door and a window opposite a window. [

The *Gemora* explains the reason for this: It is because he can say to him, “In any case, you have to conceal your actions from the people in the public domain (*and therefore, you may as well do so from me as well*). (60a)

Mishna

One may not make a cavity under a public domain. He may not dig cisterns, ditches, or caves. Rabbi Eliezer permits, so that a wagon carrying stones can travel over it (*without the cover collapsing*).



One may not make a ledge or a balcony into a public domain, but if one wishes, he may withdraw his wall into his own domain and then he may project a ledge or balcony. If one bought a courtyard and in it there are ledges and balconies (*which extend into the public domain*), it retains its *chazakah* (*that it was done in a permitted manner; he does not have to claim this; we plead this on his behalf*). (60a)

The *Gemora* asks: Why do the Rabbis forbid this (*digging a cavity with a strong cover*)?

The *Gemora* answers: It is because the cover may rot without being noticed.

The *Mishna* had stated: One may not make a ledge or a balcony into a public domain.

Rabbi Ami had a ledge projecting over an alleyway, and another person had a ledge projecting over a public domain. People objected and that person was summoned before Rabbi Ami. Rabbi Ami said to him, "Go and cut it down." The man protested, "But, the master also has a projecting ledge?" Rabbi Ami replied, "Mine projects over an alleyway, where the residents have given me their consent. Yours projects over a public domain; who is there that waived their rights?"

Rabbi Yannai had a tree which hung into the public domain, and another person also had a tree hanging into the public domain. Some people objected and that person was summoned before Rabbi Yannai. Rabbi Yannai said to him, "Go away now and come back tomorrow." During the night, he sent someone and had his own tree cut down. On the next day the man came back and he instructed him to go and cut down the tree. The man protested, "But, the master also has one?" Rabbi Yannai replied, "Go out and see. If mine is cut down, yours should

be cut down as well, and if mine is not cut down, you will not be required to cut yours down."

The *Gemora* asks: What did Rabbi Yannai hold at first (*when he kept his tree*) and what did he hold afterwards?

The *Gemora* answers: At first he thought that the people passing by were pleased with it because they could sit in its shade, but when he saw that they objected to it, he had it cut down.

The *Gemora* asks: Why did he not say to the man, "Go and cut yours down and then I will cut mine down?"

The *Gemora* answers: He wanted to conform with the dictum of Rish Lakish, who said: It is written: *Hiskosheshu vakoshu* -- clean yourselves of straw and then clean others. This means that one should first adorn himself (*to rid himself of sin*) and then he may adorn others. (58b – 59a)

Chazakah on Ladders and Windows

The *Mishna* states: An Egyptian ladder does not have a *chazakah*.

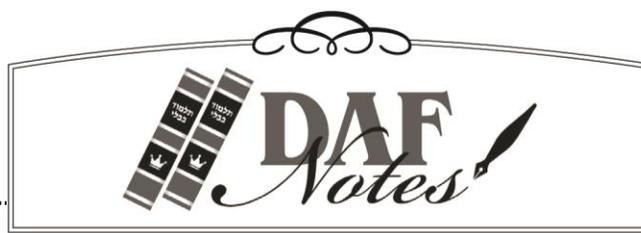
The *Gemora* asks: What is an Egyptian ladder?

The Academy of Rabbi Yannai answered: Any ladder that does not have four rungs.

The *Mishna* states: An Egyptian window does not have a *chazakah*.

The *Gemora* asks: Why doesn't the *Mishna* itself explain the definition of an Egyptian ladder just like it explains the definition of an Egyptian window?

The *Gemora* answers: Being that the *Mishna* wanted to quote the opinion of Rabbi Yehudah, who argues in the



second part of the *Mishna* regarding this Egyptian window, it had to first define an Egyptian window.

Rabbi Zeira says: A window that is less than four cubits from the floor of the house can be said to have a *chazakah*, and at the same time the neighbor can protest its being there (*before a chazakah is established*). [*This is because one can see straight into a neighbor's yard from there.*] A window that is higher than four cubits from the floor of the house cannot be said to have a *chazakah*, and the neighbor cannot protest its being there. [*This is because he cannot see from there into his neighbor's yard anyway, as it is high up on his wall.*] Rabbi Ila says: A window that is higher than four cubits off the ground cannot be said to have a *chazakah*, and the neighbor can protest its being there.

The *Gemora* asks: Let us say that they argue regarding whether or not we say that we force one to not engage in an attribute of Sodom. [*In other words, we force a person not to protest another person's rights that he will not derive benefit from, even if his protest is ruled to be legal.*] Rabbi Zeira says we force this, and Rabbi Ila says we do not.

The *Gemora* answers: No. Everybody agrees that we force a person not to engage in an attribute of Sodom. Rabbi Ila merely holds that the neighbor can claim that sometimes his neighbor might have a bench next to the window, and he can climb up and see his yard from the window.

There was a person who came to Rabbi Ami with this question. Rabbi Ami sent him to Rabbi Aba bar Mamal. Rabbi Aba said: Do to him like the opinion of Rabbi Ila.

Shmuel says: If the window is for the purpose of letting light into a dark place, even for a little bit one is considered to have a *chazakah*. [*The Rashbam explains that Shmuel understands the Mishna as referring to*

windows being opened up for the purpose of watching his fields, not for light.] (59a)

Mishna

If a person has a beam protruding out of his wall one *tefach* (*into someone's courtyard*), it has a *chazakah*. However, the owner of the yard below may protest its being there (*when the owner initially wishes to build it there; this is because he will damage the courtyard owner by peering inside the courtyard as he is using this beam*). If it is less than a *tefach*, it does not have a *chazakah* and he cannot protest. [*The Gemora quotes different opinions regarding the exact definition of the Mishna (see below).*] (59a – 59b)

Beam Protrusions

Rabbi Asi says in the name of Rabbi Ami, and some say Rabbi Yaakov says in the name of Rabbi Mani: If he took one *tefach*, he took four.

The *Gemora* asks: What does this mean?

Abaye says: He means the following: If he extended one *tefach* by four *tefachim*, he has the right to a space of four by four *tefachim*. [*In other words, he has the right extend his beam widthwise up to four tefachim that would total four by four square tefachim in one area. The Rashbam explains that being that he let him have four tefachim, it must be that he allowed him to have an "important" area, which is a minimum of four by four tefachim.*]

The *Mishna* says: If it is less than a *tefach*, it does not have a *chazakah* and he cannot protest.

Rav Huna says: The *Mishna* only means that the owner of the top floor, who extended a beam of a *tefach*, cannot prevent the owner of the courtyard below from using the beam (*for the courtyard owner cannot see onto the roof*



above him). However, the owner of the courtyard can indeed prevent the owner of the roof from extending a beam (even if he extends it less than a tefach, or he can prevent him from using it, for then, he will look into the courtyard). Rav Yehudah says: The owner of the yard cannot prevent the owner of the top floor from extending a tefach.

The Gemora asks: Let us say that they argue regarding damage done by being able to see into another's domain. One says this is considered damage, and another says it is not. [The Rashbam explains that if the owner of the top floor will want to hang things on the beam, he will end up looking down into his neighbor's yard. The Gemora therefore suggests that the argument hinges on whether or not this is considered damage.]

The Gemora answers: No. Everyone agrees that this seeing into another's domain is considered damaging. However, the owner of the roof can explain that he is certainly not going to stand on it and look down into his neighbor's yard (as it is only a few inches wide). When he hangs things, he will turn his head away and not look into the neighbor's yard. If he is looking into his neighbor's yard, it will be apparent and he will be clearly guilty of such conduct. The other opinion holds that being that he can claim he would be scared to look away, as he might lose his balance, he will have an excuse to look into his yard. (59b)

Mishna

A person should not open his windows towards a yard owned by partners. If he bought a house in a different yard, he should not make an opening towards a yard of partners. If he built a second floor onto his house, he should not make another opening to a yard owned by partners. Rather, if he wants, he can build a room in his house, build his second floor, and the people who will live

on the second floor can go through the entrance of his house (to the yard). (59b)

Windows in a Courtyard

The Gemora asks: Why does the Mishna say this is forbidden to be done towards a yard owned by partners? It should be forbidden even towards a yard owned by a single person!

The Gemora answers: The Mishna means that not only is it forbidden to do so towards a yard owned by a single person, but it is even forbidden to do so towards a yard that is jointly owned. One might think he could claim that the partners anyway must act privately, as they must protect their privacy from each other. He therefore is not causing any damage by adding another line of sight or people in the yard. The Mishna therefore teaches that the people in the yard can claim that being that they can now be seen in their houses as well, as they previously did not have a line of sight or doorway opposite their doorway, they can protest this new development.

The Gemora cites a braisa: A certain man made windows opening on to a courtyard which he shared with others. They summoned him to appear before Rabbi Yishmael son of Rabbi Yosi, who said to him: You have established your right (immediately), my son (for since they remained silent when you opened the window, they certainly gave you the right). He was then brought before Rabbi Chiya, who said: As you have taken the trouble to open them, so you must take the trouble to close them (for you cannot establish a chazakah until three years).

Rav Nachman said: If someone builds a wall next to another's window (where the window was there for three years), and the window owner remains silent, he (the builder of the wall) has established a chazakah immediately, for a person will not remain silent, even for a moment, when someone blocks his light. (59b – 60a)