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HEMDAT YAMIM

חֶמְדַּת יָמִים

Parashat Hashavua

Eikev, Av 18, 5786

On Divine Spirit, Torah Scholar, Manipulation, and One Achitofel Harav Yosef Carmel

"The counsel of Achitofel, which he gave in those days, was like one asking the word of Hashem. So was the counsel of Achitofel for David and for Avshalom" (Shmuel II 16:23). In all of *Tanach*, only Achitofel received a compliment quite like that.

The Yerushalmi (Sanhedrin 10:2) tells that Achitofel could tell people what to do that only could be known through prophesy and the like (e.g., *urim v'tumim*). This includes the plans that Shmuel gave David about how to build the *Beit Hamikdash* (see Divrei Hayamim I 28:11-20).

The Yerushalmi continues with additional examples of people who asked his advice and received clear answers. If someone had doubts about the advice, Achitofel would tell him to check with the *urim v'tumim*, and it would regularly confirm his being right. These occurrences bolstered Achitofel's stature, so that his ideas were considered godly, and he was a personification of the holy *urim v'tumim* that rested on Aharon's chest. He was viewed as on a much higher plane than a normal human being. This explains the unusual compliment he received in *Tanach*.

The problem is that the *p'sukim* previous to the praise tell us of Achitofel's counsel to Avshalom, the stench of which lasts through the generations. He told Avshalom to have relations with his father's concubines in a manner that would show the strongest disrespect for this father (Shmuel II 16:20-21). This disgusting advice came right after Avshalom turned to Achitofel in the most honorable manner. How could all of this have happened?

In the same location in the Yerushalmi it tells how Achitofel set David up for possible death at the hand of a flood that almost developed when David dug the foundations of the *Beit Hamikdash*. Achitofel's rationale was his attempt to grab leadership for himself. Similarly, the *gemara* (Sanhedrin 101b) tells that Achitofel saw physical signs that could have indicated his ascension to the throne. He thought that if Avshalom would seize the kingship from David, it would be easier to wrest it from him. This certainly provides another angle at his shrewdness (see Rashi ad loc.). The Yad Ramah (ad loc.) says that Achitofel understood that he did not have the ability to take the throne from David, who was too brave and wise, and enjoyed too much deep-seated loyalty from the people. To appear innocent when Avshalom grabbed power and then trick and discredit him would have been much more doable.

So we see that Achitofel may have started out as a Torah scholar and one with divine spirit, but his great ego got him in trouble. As a result, he lost his place in this world and the world to come (see the recent Parashat Devarim column).

Let us pray for leaders like Avraham, Moshe, and David, who merited to symbolize proper leadership due to their humility. May we similarly have success in all of the national security efforts, as those who have given so much to promote this success will be healed and/or comforted.

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Ask the Rabbi

by Rav Daniel Mann

Mezuza on a Tzimmer

Question: We will soon complete building a *tzimmer* (vacation cabin) attached to my house (separate entrance). I will definitely put *mezuzot* up, even if just for the “feel” or protection, but am I really obligated, since I do not live there? I guess that will determine whether I make a *beracha* or not.

Answer: The *gemara* (Bava Metzia 101b) does say that the obligation of putting up *mezuzot* on rental property is on the renter, implying not on the landlord (see also Avoda Zara 21a). While this is practical for a lengthy rental, a *tzimmer* owner could not expect that vacationers will bring *mezuzot* with them. Actually, though, the vacationers do not need them. True, in *Eretz Yisrael*, a renter is required to affix *mezuzot* right away, as opposed to in *chutz la'aretz*, where there is a 30-day “grace” period (Menachot 44a; Shulchan Aruch, Yoreh Deah 286:22). However, even in *Eretz Yisrael*, one who stays in a *pundak* (an inn for travelers – Rashi ad loc.) is exempt from *mezuza* (ibid.). This applies to hotels and *tzimmers* as well (Chovat Hadar 3:5), **at least** for 30 days (see S'dei Chemed vol. V, p. 63; Mishneh Halachot IV:134).

Then, the question becomes – if your guests are exempt, does that mean you are obligated? This depends on the rationale of the *gemara* (Bava Metzia 101a) that *mezuza* is the obligation of the *dar* (the renter who is living there). Some posit that if one owns a house but does not live in it (i.e., the landlord) he is fundamentally exempt from *mezuza* (Tosafot, Avoda Zara 21a). If so, if you never use the *tzimmer* as part of your “living quarters,” you should not be obligated. On the other hand, Rav Yehonatan (cited in Shita Mekubetzet, Bava Metzia 101b) posits that according to Torah law, the landlord is obligated in *mezuza*, but they obligated the renter because he is the one who benefits from the *mezuza*'s protection. According to this latter approach, if the guests are not obligated during their insufficiently significant stint, the owner would be obligated.

Even if a permanent landlord is not obligated on any level in attaching *mezuzot*, you might be obligated. One possibility is that the fact that you are dealing with the *tzimmer* commercially, to make money, on an ongoing basis rather than on a one-time basis, makes it considered a use of the money maker (see Torat Hamezuzah p. 104). This is enhanced if, as proprietor, you often have to go in and take care of the *tzimmer* (see Igrot Moshe, Yoreh Deah II, 141). Also, the Shevet Halevi (II:156) says that even if hospital patients do not require a *mezuza* on their room (due to the nature of the stay), a Jewish hospital would require *mezuzot* on all its doors. This is not only because the Jewish staff frequent the rooms, but also because of the Jewish ownership. (He does not discuss whether they are affixed with a *beracha*.)

The approach that the owner does not need to live there like a home depends on the question of *mezuzot* for the workplace (which we discussed in Living the Halachic Process, I:G-4). The Rambam (Mezuza 6:9, accepted by the Shulchan Aruch, YD 286:11) says that a store in a marketplace does not require *mezuzot* seems to imply that *mezuza* requires domestic living. However, some attribute the Rambam's exemption to other factors – it is used only in the daytime; the market was only on certain days. Still, most *poskim* suggest not making a *beracha* on attaching the *mezuza* to a commercial space due to doubt about the requirement (see LTHP ibid.).

The simplest advice is to affix the *mezuzot* without a *beracha*. If you want to find a way to make a *beracha* appropriate, you can use the *tzimmer* for personal needs either before turning it commercial or even afterwards, if you do so from time to time. This includes having close family and friends being semi-frequent occupants, as many consider the living use of such people like your own (see Torat Hamezuza ibid.). Note common practice is that one who moves into a house that has a room set aside as a guest room affixes a *mezuza* on it without a *beracha*, even if the guests are not constant!

“Behind the Scenes” Zoom shiur

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Moreshet Shaul

(from the works of Hagaon Harav Shaul Yisraeli zt"l)

Open the Gates

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 391 – Address at *hachnasat sefer Torah* at Yeshivat Merkaz

“Gates, raise your heads, and raise the openings of the world, and the King of Honor shall come. Who is the King of Honor? It is Hashem, the Master of Legions ...” (Tehillim 24:9-10).

The *gemara* (Shabbat 30a) tells that when Shlomo wanted to bring the *aron* into the *Beit Hamikdash*, the gates were sealed tight until Shlomo mentioned the virtues of his father (see Divrei Hayamim II 6:42). A *midrash* (Yalkut Shimoni, Tehillim 699) explains that the *aron* could not pass because the doors were not made in a way that could spiritually accommodate them, and therefore they remained sealed at that time. One needs to know that when you build a Sanctuary, it must not be done for glory but for the *aron hakodesh*, i.e., the foundation of Jewish sanctity that stems from the Torah. All of the grandest halls are nothing if the *sefer Torah* cannot enter it.

“Gates, raise your heads” – one must raise and open the gates. One must sanctify the path and pave the way so the *sefer Torah* can enter. One can build the building and forget the main thing, the foundation, the ability to bring in the *sefer Torah* [i.e., the content].

These days, we have the same issue; the “gates” seem sealed to the Torah, and we need to fight to get them open. Without the gates, the whole building (ed. note – apparently referring to the State of Israel) is not worth anything; it can all collapse and falter. It can be beautiful but missing the critical spirit. Therefore, we are praying that the *aron* be led on the path that will enable it to sanctify the cities of Israel and their streets, so that every corner of the country will have sanctity. If it is holy, no wind in the world will be able to move it.

“It was as the *aron* traveled that Moshe said ...” (Bamidbar 10:35). When the *aron* travels from its resting place, when a path is paved to allow it to enter, as people sanctify the city, the streets become holy as a result. When we went dancing in the street in Jerusalem, we sanctified it and its surroundings. Whoever wants to tear a piece of Jerusalem from us wants to tear out the very essence of Israel. We sanctified the city, and the *aron* passed through its streets, past the houses of Israel. That is the essence of “How good are your tents, Yaakov, your dwellings, Israel” (ibid. 24:5). The dwellings of Israel and their tents, i.e., their families, go together hand-in-hand. When each is strong, no power can have dominion over them.

“Hashem switched the curse into blessing, because Hashem loved you” (Devarim 23:6). While the Torah says Hashem switched the curse into a blessing, *Chazal* (Sanhedrin 105b) tell us that all of the blessings but one, “How good are your tents ...,” returned to curses. But if they turned back into curses, what good is it that they switched into blessings in the first place?

The answer is the continuation of the *pasuk*, “because Hashem loved you.” He gave us the true key to knowing when the blessings can turn back into curses and when not. “How good are your tents” – if there are good families, acting properly so that the divine cloud is above their houses, and they join up with the dwellings of sanctity, the *batei kneset* and *batei midrash*, where Torah is learned and fear of Heaven grows, this brings the protection against blessings turning into curses.

Tonight we have had the privilege, through Rav Magnes and his wife/home, to experience the honor of Torah and be joyous with it. We request and pray that not only will we be happy with the Torah, but the Torah will be happy with our happiness. There should be mutual happiness, as fitting for the aforementioned *pasuk*. This comes from the family/tent, and it is noticeable in the house, that *Mishkan* of Hashem where Hashem’s “voice” is heard clearly through the Torah.

We daven for a complete and speedy *refuah* for:

Itamar Chaim ben Tzipora
 Nir Rephael ben Rachel Bracha
 Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
 Neta bat Malka

Together with all *cholei Yisrael*

Avraham ben Gitel
 Tal Shaul ben Yaffa
 Meira bat Esther

P'ninat Mishpat

Complaints about Contractor's Work – part I

(based on ruling 83037.1 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendants (=def) hired the plaintiff (=pl) to renovate their home for 305,000 NIS, agreeing to complete the job by August 2022. Although def never signed the contract, they acknowledged that it was seen as the basis for the deal. During the project, def requested additions and changes. Relations deteriorated over alleged delays, unaddressed defects, scheduling, and billing discrepancies. The sides paused to take account of their mutual contractual obligations, which resulted in pl claiming they deserved an additional 83,000 NIS, beyond the 323,000 NIS paid, due to the additions. Def claimed they overpaid by 27,000 NIS. With def refusing to pay more and pl therefore refusing to continue work, including repairing imperfections, def fired pl. The central issue in this partial ruling is whether def was legally justified in dismissing pl.

Ruling: Validity of the contract and def's alleged breaches - Pl argued that the contract is not binding because def never signed it and because def breached it by not keeping to payment schedules and by firing their inspector, who was mandated in the contract. Def maintained it is binding, attributing payment delays to verbal extensions granted by pl's representative. We rule the contract is fully valid. A contractor's agreement is binding once work begins or a down payment is made (see Shulchan Aruch, Choshen Mishpat 333:1). Regarding the late payments, we see from the behavior of pl all along, that they did not see in the delays a fundamental breach of contract. The matter of the inspector was also written into the contract for the benefit of def, so that he will be represented. If def decided he did not want him anymore, this is not a breach of contract in regard to pl.

Pl's alleged breaches: Unskilled labor - Def claimed pl violated the contract's clause that requires skilled labor by using an unskilled apprentice for plumbing and unqualified workers for roof sealing. Pl countered that the plumber had years of experience and that an unexpected subcontractor cancellation forced him and his brother (who are skilled) to do the sealing themselves. Beit din partially accepted the foreman's testimony that they did most of the work on the plumbing and in any case, defects regarding the plumbing were ultimately corrected. Regarding sealing, a *kablan* (contractor) is legally distinct from a worker, not only in regard to how they are paid but in the fact that a contractor, on the one hand is obligated to provide a successful final outcome, but on the other side of the coin, has discretion over staffing (see Terumat HaDeshen 329). Part of the job of a *kablan* is to supervise the work of others, which there are indications he did. Thus, no immediate breach occurred, pending an expert evaluation of the sealing quality.

We continue next time with other elements of this initial ruling.

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