

CENTER FOR MODERN TORAH LEADERSHIP

Center for Modern Torah Leadership



חרות ואחריות

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"Taking Responsibility for Torah"

THE 2022 SBM SH'AYLAH

By Rabbi Aryeh Klapper

The 2022 SH'AYLAH includes two real-world cases. Fellows will choose to answer one or both. I chose this model because a major part of the issue in deciding techumin is balancing the desire to solve a specific problem, with the need (perhaps) to set consistent and predictable halakhic standards. The conversations among Fellows doing different cases have in fact been highly productive.

Techumin questions are by nature highly visual, so I've included Google Earth links in the text. For those reading on Shabbat, or who have trouble visualizing, it should be enough that each case initially seems to require traversing a straight-line distance of more than 4000 amot through space that is not considered part of the space within which one began Shabbat. The laws of techum allow one to travel only 2000 amot (or possibly the hypotenuse of a 2000 amah by 2000 amah square) in any direction beyond that space (although an eruv techumin can allow one to be considered as beginning Shabbat anywhere within those 2000 amot, and then to count one's 2000 amot from there; and there are many other nuances).

One of the questions I've been thinking about throughout the program is the extent to which modern mapping capacities can and should change the precision and imagination with which these halakhot are developed. Josh Rosenthal's cooperation and SBM presentation have been enormously helpful in this regard.

Another core question the Fellows and I keep coming back to is whether a halakhic position can be disqualified because its consequences in our place and time seem impossible or counterproductive, even if that would not have been true in previous eras.

An example is a position that because of population growth now leads to the entire Eastern Seaboard, or North America, being one techum zone. This can likely

be accomplished if we allow a city to be "squared" in the cardinal directions, meaning to have a rectangle drawn around it that touches its furthest extension in each cardinal direction, without regard to how distant the perimeter ends up being from the original city; and then ruling that cities can be combined if their "squares" intersect in any way; and then ruling that such merged cities can themselves be squared; and that this process can be infinitely iterated.

Another example is a position that ends up treating even super-dense urban areas as atomized, forming no common "city". This can likely be accomplished by defining an unwalled city as requiring minimally three contiguous (i.e. within 70 amot of each other) unroofed courtyards each adjacent to at least two residences with separate entrances onto the courtyard, and whose use is exclusive to those residences. Do such contiguous courtyards exist in Manhattan?

Another core question is whether psak regarding techumin should primarily be responsive to the living conditions of Jews now, or rather should embody or advocate for an ideal urban planning model, and be willing to inconvenience observant Jews now for the sake of preserving and educating about that ideal.

The procedural questions hanging over all these are whether the principle "halakhah kedivrei hameikil b'eiruv" applies to post-Talmudic and even to contemporary halakhic disputes; whether it mandates or only permits adopting the lenient position in such disputes; and whether it comes into play even when one sees a stricter position as intellectually or textually more likely.

Listening to the creativity, depth, seriousness, integrity, respectfulness, and self-awareness of the Fellows as they work on their teshuvot has been inspiring and wonderfully

affirming of the SBM model. I look forward to sharing their work with you, and I encourage you to email me your thoughts and questions about the Sh'aylah in the interim.

1.

The Mass Audubon Moose Hill Wildlife Sanctuary, as its name implies, is intended as a space for humans to visit rather than to live in. According to <https://www.massaudubon.org/get-outdoors/wildlife-sanctuaries/moose-hill/about>, “Moose Hill, established in 1916, is Mass Audubon’s oldest wildlife sanctuary, encompassing protected forests, fields, and wetlands. Diverse hiking trails and a red maple swamp boardwalk provide countless opportunities for exploration in addition to seasonal programs and summer day camp.” To the best of our knowledge, there are no sleeping facilities in the sanctuary, although the main center hosts a summer day camp and many other activities.

There are some houses along the roads that run alongside or through the sanctuary, especially along Upland Road. In the past, various rabbis including Rabbi Klapper and Rabbi Cheses have permitted people living near the intersection of Upland Road and Moose Hill Parkway to walk to shul on Shabbat, and return to their homes.

House prices in Sharon have risen sharply during the pandemic, the Orthodox community is highly attractive, and inventory is scarce to the point that the Young Israel of Sharon maintains a list of families to notify whenever a house becomes available.

One such family is the Ahashtranim. Dal and Annie are a 40ish couple with a 12-year-old son and 11-year old daughter. They currently live in Swampscott, where their children attend public school, and often attend the local Chabad on Shabbat morning. They describe themselves as “aspirationally Orthodox”. Dal is an auto salesman and Annie works as an assistant manager at Shaw’s. They want to live in Sharon to be nearer Annie’s aging parents, who live at Avalon Sharon.

They have asked whether they can consider houses that become available further within the sanctuary. They’ve asked specifically about 354 and 361 Moose Hill Street, although these are not currently on the market. They are willing to live outside the eruv, but would like the option of walking to shul, although they admit that they probably won’t show up more than once a month. They also admit

that they might buy one of the houses even if you say the walk is forbidden, and then decide for themselves whether to come at all.

Meanwhile, Rabbi Cheses has become concerned that some members of the shul may be hiking the trails within the sanctuary without considering techum issues. He’s asked you to draw a map of the sanctuary explaining where people living within the Sharon techum can and cannot hike to on Shabbat, if in fact there are areas on the trails that are out of bounds. By “Sharon techum” he means the techum zone that contains the shul, whether or not it contains the entirety of Sharon, or parts or all of other cities, states, countries, or continents. This map would presumably also be helpful to families if any other homes become available.

2.

Tzvi and Ayelet are graduate students at Rutgers University. The university has assigned them housing at 97 Nichols Apartments. They accepted that assignment on the assumption that they would be able to walk to Chabad and Hillel, and were astounded to hear that a frum couple previously assigned to the same house had raised techum issues, and had been unable to find a posek willing to tell them that it was permitted to walk to Hillel on Shabbat. That couple had resorted to placing an eruv techumin that they believed enabled them – barely – to walk to Chabad.

Tzvi is an ex-chasid who flatly refuses to attend the Chabad at Rutgers, although he is unwilling to say why. He generally has a challenging relationship with religious authority – in this case he makes clear that he thinks the whole question is ridiculous – obviously the whole campus is one techum! - and he’s asking it only because he really wants to invite Shabbat guests from Hillel, and he’s davka asking you, based on your SBM experience, rather than any rabbi. Ayelet, by contrast, relates to halakhah mostly in terms of rabbinic authority, with some element of social conformity added in. She does not like cutting corners or relying on minority opinions. So as not to provoke a fight with Tzvi, she hasn’t asked a rabbi for psak, but she makes clear to you that she’ll only accept a heter if you can honestly tell her that it’s a mainstream position that can be relied on even lekhatchilah and not in a sh’at hadchak.

Shabbat Shalom!

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