

# *Neighbors and Neighborly Relations*

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If you live near me and I live near you, we make claims on each other. This is so, no matter how we feel about each other. Whether I like you or not, whether I choose to care about you or not—these things are of no consequence. Your presence alone demands things of me and my presence demands things of you. You might ask why: why should the fact that I live near you bind us in any particular way? And why do those who live closer make greater claims on us than those who live further away?

The first answer is rooted in the story of creation. We are told there that we are all made in the image of God (Genesis 1:27, 5:1, and 9:6); we all share a bit of God's reflected divinity. I carry a bit of the Divine in me just as you carry a bit of the Divine in you. And the Divine is something we cannot ignore. Just as God's presence in our lives demands a response from us, so too does our presence in the lives of each other. And while this demand is a claim that emanates from every individual, those who stand directly before us have a greater claim than those who dwell at a greater remove.

In the presence of the other, we cannot argue that we did not know. In my presence, you and your claims are right there before me. I dare not turn away from you, for I am your witness even as you are mine whether we have chosen to be so or not. Emmanuel Levinas, the eminent philosopher and talmudist, speaks of "face" as the symbol of the unique, unknowable, invaluable aspect of each individual: "The epiphany of the face is ethical" and "The face opens the primordial discourse whose first word is obligation." (See his *Totality and Infinity: An Essay on Exteriority* [trans. Alphonso Lingis; Pittsburgh: Duquesne University Press, 1969], pp. 87 and 199.)

### *The Halakhah of Proximity*

In neighborly relations, the reality of proximity meets the ethical imperative to seek traces of the Creator in the presence of others. This truth may also be put more prosaically. What you do in your space affects me directly. Aspects of your behavior leech out of your domain and enter mine in many different ways: physically (such as the way your overgrown yard is growing into mine); aesthetically (such as the way the condition of your home's façade, the boat in your driveway, or the tool shed in the front yard affect the look of my own home); and socially (such as the way your alcohol and drug abuse, or your wild poker parties every Tuesday night, affect the ambience of my neighborhood). Pollute your air, land, and water, and you pollute my air, land, and water. Build a wall or high-rise in front of my windows, and you block my view or my access to sunlight. Siphon off the stream just before it reaches my house, and you deprive me of my water supply. Take illegal drugs, and the quality of community life diminishes. Your right to do whatever you please on your property ends when it intrudes upon my rights, my investments, my space, and my spiritual well-being.

This line of reasoning is shared by almost every society that cherishes and respects the private use of property. It balances the interests and rights of one individual with those of another. The challenge comes in determining the line between my rights and your offendedness. How much noise is too much? Who is responsible for an overhanging branch? How high can I build on my property? How close to my borders, and yours, can I put a structure or a tree? When issues of boundaries are in dispute, law intervenes.

But modernity (or, more precisely, manufacturing and technology) has changed the meaning of "neighborhood" in our world. Traditionally, neighborhoods were defined in terms of physical proximity. That definition continues, but we also measure neighborhoods today not solely in terms of walkable distances, but also in terms of the reach of our actions. If we are talking about

noise or light, a neighborhood can be defined by the distance that noise and light travel. If we are talking about smoke emissions, a neighborhood must be defined in terms of the distance smoke travels. If we are talking about airborne pollutants, pesticides, herbicides, fertilizers, hormones, and antibiotics that homes, yards, and farms introduce into the ecosystem, then a neighborhood must be defined by the area that the pollutants affect. And we are just beginning to appreciate the ways in which telecommunications and the ubiquitous access to the Internet through our mobile devices can diminish, expand, or otherwise alter our experience of space and thus redefine "neighborliness."

For the purpose of this chapter, though, we explore neighborhood only in its more limited sense of physical proximity: houses that abut yards, homes that share walls, residences that lie along common streets, structures found within common courtyards, and spaces within apartment buildings.

### *When Rights Collide*

Your property's value and your quality of life are affected not only by what happens inside your home but also by the activities and behavior of your neighbors. Indeed, an overgrown yard, a home overrun with cats, or a lawn strewn with disassembled cars or discarded, rusting appliances can degrade both the value of the neighbors' homes and the beauty of the neighborhood. In cases such as these, Jewish law permits the residents of a neighborhood to bring pressure to bear to oblige offenders to clean up their space. "If a resident in an enclosed neighborhood wants to raise a cow or roosters, or bring in a grindstone [to mill grain], his neighbor can prevent him. And such is the law with every other thing that is not normally found in a residential area" (SA Hoshen Mishpat 161:5).

Today's civil zoning laws are expansions of older attitudes of neighborhood aesthetics and are rooted in the culture of the place. And the *halakhah* of neighborliness is similarly influenced: what is labeled acceptable for a residential neighborhood is most often determined not by a universal law but by local custom. Such laws and customs may not be overridden by the proclivities or tastes of individual property owners. Indeed, Maimonides rules clearly at MT Hilkhot Sh'kheirim 5:1 that when homes are built around a courtyard, any neighbor may legally compel any other to contribute to the construction of a door or of any other kind of structure in that courtyard that "it is customary for people in that place to build." (The law is slightly different if the owner is not a permanent resident, cf. *ibid.* 5:2.)

The ability of neighbors to restrict one another's behavior is based on three distinct rights: (1) the right to protect one's financial investment, (2) the

right to preserve the nature and culture of the neighborhood in which one has settled, and (3) the right to find aesthetic enjoyment in one's own home and on one's own property. This being the case, if a neighbor puts up a fence in a community that prides itself on unbounded lawns that flow easily into one another and which thus serve to create a sense of openness and unity, that neighbor may be forced to take down his or her fence. (The feasibility of putting such principles into practice, of course, depends on many factors, chief among them whether the community requires that new residents formally agree to such terms and whether there is a strong neighborhood council to enforce them. Absent that, the impact of social pressure or the culture of the local courts to limit personal expression without written neighborhood covenants will matter most.) Many neighborhoods now have covenants that determine such issues as setbacks, minimum property size, existence and placement of storage units, use of yards, height of structures, and so on. Even where such covenants do not exist, Jewish law argues that local custom is the final authority, and Maimonides' ruling is as clear in this regard as it is succinct: "Everything depends on local custom" (*MT Hilkhot Sh'kheinim* 2:15).

The rules governing laundry serve as a fine case in point. Once women were allowed (or even required) to wash and hang their laundry in a common courtyard because going to local streams to do the washing was deemed unseemly, unworkable, or dangerous (*MT Hilkhot Sh'kheinim* 5:3). The loss of aesthetics in the neighborhood was deemed a necessary sacrifice for the safety of the women and thus a practical necessity that none could protest. However, when washing machines and dryers became widely available and affordable, doing one's laundry in public could reasonably be banned. Yet here too local custom must always prevail: in some places, drying one's wash in the wind is still much preferred to machine drying, both for the enjoyment of the sunshine and the smell of the outdoors as well as for the environmental benefit of reducing the use of fossil fuels. In such places, drying one's clothes in public (which is to say, visibly) may not be forbidden, and may even serve as a proclamation of one's values. The public washing of one's clothes, however, is likely to continue to be frowned upon.

How does Maimonides' ruling intersect with the personal freedom of property owners to conduct themselves as they please on their own property? May a community outlaw all work performed in public or prevent the establishment of so-called "cottage industries" in the privacy of one's home? Does a community possess the right to outlaw start-up companies in residents' basements, or to forbid garage bands from practicing there, or to forbid enterprising citizens from selling kitchen items from their homes simply because most of their neighbors do not engage in the same kinds of activities? The



short answer is that neighborhoods may not pass such restrictive covenants, nor legislators such restrictive regulations, as long as the activity itself is not noxious, does not create excess pollutants (including aesthetic ones such as noise and light), and does not attract undue crowds, create parking problems, attract unwanted media attention, draw strangers into the neighborhood late at night, or attract rodents. If there is no specific reason to forbid the existence of specific cottage industries, they must be deemed acceptable and, as such, tolerated. (For a fuller discussion of these issues cast in traditional terms, see the talmudic text preserved at *BT Bava Batra* 20b and Maimonides' selection of laws at *MT Hilkhot Sh'kheirim* 6:9–12.) Nor should the elaboration of these principles be viewed solely as an academic exercise: halakhically minded Jews may well choose to be governed by these norms, even when living in a larger society that is wholly unaware of them.

### *Limits to What Neighbors Can Protest*

Despite these restrictions, however, there are also specific activities identified within the sources as so valued by traditional Jewish society that neighbors do not have the right to forbid them, even if the activity can be demonstrated to be detrimental to neighbors' property values and to a generally agreed-upon neighborhood aesthetic. Judaism values Jewish learning, for example, and allows neighbors to run small schools for the Jewish education of young children out of their homes—even if the increased traffic and noise is unwelcome by others in the community. Interestingly, our sources do not grant this same leniency to schools that offer secular education, the presumption being that there will always be numerous other venues in which such instruction can take place. Even in a society in which secular law must be obeyed, Jewish citizens can use the *halakhah* as a guide in terms of establishing their own sense of what should be allowed and what not, and then proceeding to work for what they feel justified in obtaining.

In various communities around America, similar dilemmas have arisen in many different settings. When, for instance, a new family in town decides to hold prayer services in its home on a regular basis, either in lieu of regular synagogue services or as an alternative to them, this could be seen as combining home and synagogue into one establishment. Displeased neighbors, including Jewish ones, might well complain, then resort to local secular courts to stop this perceived violation of residential zoning laws.

Who is right in such a case? Should a Jewish community's need to create more opportunities for communal worship trump the local zoning laws or aesthetic sensibilities? Or is it reasonable to tag the newcomers as inter-

lopers and spiritual carpetbaggers who, while purchasing their house on the pretext of making it a home, appear to have had the ulterior motive all along of violating that contract by turning their home into a place of "work," and public worship, thus altering the nature of the community? (Nor would the situation be any different if the people involved were not new arrivals at all, but longtime residents who on their own chose to create a new worship venue in their home.) The answer derives directly from the precedent of creating Jewish schools and therefore rests on how the neighbors value the "work" being done in that space. If what goes on there is valued and seen as essential for the Jewish commonweal, then the *halakhah* would oblige them to tolerate it. If the activity promotes the advancement of Jewish community but can be performed elsewhere, the *halakhah* would permit them to object.

Local zoning laws may have a different take, however. When, for example, does dropping your child off at a neighbor's house turn from a favor—even one in which money changes hands—into a business? And would this be a zoning violation or business license issue—or both? Do we zone for a gas station with a convenience store in a residential area? Do we permit people to set up kennels and veterinary clinics in their backyards? May dentists serving the public freely work out of a room in their homes? Do we allow halfway houses to exist in otherwise residential neighborhoods? All these questions are adjudicated in secular courts with respect to zoning restrictions based on secular cultural trends. Separating suburban residential communities into bedroom communities accessible only by car with no commercial establishments, sidewalks, or public places was a particular expression of post-World War II values. Within the halakhic sphere, however, laws reflect the values the Jewish community professes to hold dear, allowing the "communal good" to trump what otherwise would be a set of personal prerogatives. And, indeed, the right to protest against unpleasant, dangerous, or especially irksome or noisy activities on the part of thoughtless neighbors is a permanent one that can be invoked even years after the fact (MT Hilkhoh Sh'kheinim 5:5).

In the secular world, one often hears the acronym NIMBY ("not in my backyard") invoked to denote an enterprise socially valued by some but perceived as potentially risky or unaesthetic by those whose homes would be in close proximity to it. This often becomes a contentious issue, as it pits the desires, prejudices, and fears of a neighborhood's residents against the needs of the larger community. In our society, for example, some people live in group homes where they can receive support and services to help them live fuller lives; certainly, this type of home is better suited to a residential setting than an industrial one. Yet the residents of neighborhoods in which such group

homes are planned have a right to demand that due diligence be undertaken regarding safety, placement, supervision, transportation, and other factors that might affect the well-being of local residents and their investments. And they certainly have the right to insist that no single neighborhood be unfairly burdened by such projects. But if all these precautions and requirements have been met, and if it is clear that placing such a home in the area will have no real ill effects on the neighborhood—then neighbors seeking to act in accordance with *halakhah*, and perhaps a bit of *hesed*, should endorse and not attempt to scuttle the plan. And all the more so if it brings good! Indeed, Maimonides' ruling that all the inhabitants of a given street may compel each other to participate in the installation of the kinds of poles and beams that will allow neighbors to carry goods in the street on Shabbat is merely a specific application of the principle that when a community will benefit from an ordinary improvement, it is the obligation of all residents to share in whatever costs are entailed in providing it (*MT Hilkhhot Sh'kheinim* 5:12).

### *Great Good Places*

In accord with their contemporary aesthetics, most twentieth-century city planners limited the degree to which a residential district could (or should) include business establishments. This was meant to improve and protect the quality of life for local residents. But many social engineers today believe this was a mistake. Parks, post offices, local restaurants, hardware stores, beauty parlors, and barber shops can all serve as "great good places" where members of the community gather and interact regularly, casually, and meaningfully. Here, people share news, maintain friendships, and build and secure "infrastructures of human relationships." It is only in such places, with regular and frequent interaction, that social intimacy and, in the words of Ray Oldenburg, "the habit of association" can develop. (Readers interested in learning more about the concept of the "great good place" can consult Claude Fischer *et al.*, *Networks and Places: Social Relations in the Urban Setting* [New York: Free Press, 1977].) Indeed, in his landmark book, *The Great Good Place* (3rd ed., New York: Da Capo Press, 1999), Oldenburg argues forcefully that we should work for the return of such places to reinvigorate our neighborhoods and enrich our lives.

For Jewish citizens, this idea has profound implications. Ever since the destruction of the Temple (our preeminent "great good place"), Jews have created great good places wherever they have landed. Our houses of study, our synagogues, our schools, our camps, our philanthropic meeting places, and, more recently, our Jewish Community Centers all serve as regular gathering



spots. Daily *minyanim*, organizational meetings, kosher butcher shops, Shabbat kiddush, learning around a rebbe's table, and the like all afford opportunities for regular, meaningful, yet casual and serendipitous local gathering. These, more than anything else, create a sense of community rooted in feelings of mutual concern, shared destiny, and the common willingness to work on behalf of one another. As a result of such interactions, and the knowledge that similar future social interactions are probable, social pressure builds to create peaceful accommodations with one's neighbors. Neighbors who know each other create safer, healthier, and more valued (and valuable) living spaces. Maimonides' law is succinct and clear: "The residents of a city may compel each other to participate in the construction of a wall [around the city] and the installation of bolted gates [in that wall], in the construction of a synagogue, and in the purchase of a Torah scroll or a scroll containing selections from the Prophets or the Writings" (MT Hilkhhot Sh'kheinim 6:1). Clearly, participation in the creation of a secure, culturally rich environment in which to live is to be considered the common obligation of all neighbors in a town or a city. And when Rambam legislates that even orphans are obliged to participate in the effort to provide fresh, potable water to a city, he is merely choosing a specific way of saying that even people of exceedingly modest means should feel obligated to participate in the effort to foster the common good (MT Hilkhhot Sh'kheinim 6:7).

Even more, great good places are locales where friends may casually run into each other and where society itself may be seen as promoting the physical, mental, and spiritual well-being of the individual. In light of such research, Jewish citizens should work on the reintroduction and re-creation of modern great good places (be they physical or even located in cyberspace) to strengthen the modern notion of neighborhood. That too is part of the halakhic obligation to use the values inherent in good neighborliness and societal cooperation to create warm, thriving communities. Rambam even rules that one may not plant certain kinds of trees on unowned no-man's land outside of a city's outer boundary if their presence will spoil the city's aesthetic beauty (MT Hilkhhot Sh'kheinim 10:1).

### *Noise, Eyesores, and Everyday Pollutants*

The amount of noise you are allowed to produce in your home is directly related to the distance between you and your neighbors, the quality of your insulation material, and your neighbors' health.

Take the case of a noisy air conditioner. Notable halakhists have ruled, for example, that the owner of a noisy air conditioner may be prevented from



running it until he or she gets it fixed or replaces it. (See in this regard, Eliezer Simḥah Weiss, *Sefer Mishp'tei Sh'kheinim* [B'nei Brak: E.S. Weiss, 1997], pp. 102–103.) The logic is that the noise will surely disturb those in the immediate vicinity: healthy neighbors will be prevented from sleeping at night, while children and the infirm will be prevented from sleeping during the day. In such a case, the neighbors' health concerns (i.e., need for adequate sleep) overrides the comfort of the homeowner who operates a public nuisance in the confines of his or her own home, and this is especially so when the disturbance is due to poor maintenance and is therefore ultimately resolvable. One could easily argue that the same could be said of those who play a radio, television, music player, or computer too loudly, since these devices have volume controls and are used recreationally, whereas an air conditioner's noise cannot be modulated the same way.

Some situations are not so clear. What if the air conditioner was necessary for the resident's health, preventing allergens from invading the home or heat stroke among the elderly, and yet it still bothered the neighbors? Or what if neighbors complain about the noise from a teen band practicing next door? When does one person's music become another's noise? The situation is too complex to justify forbidding outright the cacophonous sounds of budding musicians. One could counter by saying that there is no practical alternative, since all bands need places to practice and all musicians begin as amateurs. We could also note that the noise in question is not the result of malfunctioning machinery, but the essence of the enterprise. And, unlike the air conditioner, the band does not practice all day and all night. Good neighbors will work to accommodate each other, agreeing upon a certain level of amplification during certain hours for fair and reasonable purposes.

Depending on the quality of the building's construction, some accommodation to neighborhood noise is necessary. The *halakhah* ordains a basic tolerance for what have become ordinary sounds, and we would see refrigerators, dishwashers, vacuum cleaners, lawnmowers, normal traffic, the occasional roar of subways, and the wail of police or ambulance sirens as falling into this category. Sometimes, we even find such sounds reassuring! We might need to extend our tolerance to the occasional unwanted human-made sounds, but when the noise consistently reaches beyond a certain reasonable threshold, the disturbed neighbor has the halakhic right to ask and to expect that the noise be diminished or entirely curtailed.

The Talmud determines that eyesores and everyday pollutants are likewise unacceptable (see, e.g., *BT* Bava Batra 17a–18b). One neighbor may not deposit unsightly trash, leaves, garden refuse, or other disposable items close to another neighbor's yard. If one's neighbor does deposit refuse too close to

one's own property, one has the right to demand that it be covered, in order to minimize any offensive sights or smells. Similarly, dumping garbage—even on one's own property—is not allowed because such trash could surely be understood to constitute an eyesore, a health hazard, a magnet for rodents and other animals, and/or a source of noxious odors. Nor may one create a dangerous situation, and then consider oneself blameless for the damages that ensue due to the behavior of the wind (*MT Hilkhhot Sh'kheinim* 11:1). However, our sources could certainly be interpreted to suggest that something like composting, a relatively benign process that involves the controlled depositing of organic matter into mounds of earth that are regularly turned and subsequently spread around the garden and yard, should be permitted without the neighbors' permission being requisite.

Sheds, workstations, and additional structures must be attractive, neat, devoid of hazards, and at a reasonable distance from a neighbor's property (*MT Hilkhhot Sh'kheinim* 9:1), as well as conform to all local zoning ordinances.

While gardening is not generally considered an eyesore or pollutant, one must still be careful about how one plants a garden. Some plants attract bees, for example, and therefore should not be planted too close to a neighbor's property or to the public thoroughfare. Poor drainage not only risks turning one's backyard into a swamp, but can also create a fertile breeding ground for mosquitoes that can assault and threaten an entire neighborhood. Since some viral diseases can be borne by mosquitoes, this becomes not just a nuisance but a public health hazard. With the growing popularity of community and kitchen gardens, more and more beds that used to be consigned to the backyard are now appearing in the front. As long as the beds are neat and well-tended, this should be a welcome development.

Plants and bushes should not be allowed to overrun their beds and encroach on a neighbor's property. Hedges sometimes grow out of control and invade sidewalks and yards. It also often happens that exotic (i.e., non-native) species are planted by well-meaning gardeners and landscapers, only to have them overwhelm native plants, thus becoming a threat to the diversity of the local flora and fauna. While one cannot control seeds that are wind-borne, one can control both what one plants and the reach that one's plants are allowed to achieve on one's property. If one's bushes encroach on a neighbor's lawn, Jewish law empowers the offended neighbor to cut down or remove the portion that has grown beyond the owner's property line. If a tree's limbs or roots threaten to damage a neighbor's house, basement, or yard, or to uproot a neighbor's sidewalk, or to damage a neighbor's lawnmower blades, then the offended neighbor is permitted to remove the offending part of the tree. Similarly, if a tree overhangs a neighbor's yard and

obscures the sun, casting too much shade on the neighbor's side, or causing too many leaves to litter the neighbor's property, or otherwise is found to be disturbing, the neighbor may cut its branches back to the owner's property line. (The preceding discussion is based on the material at *M Bava Batra* 2:12-13.)

In an era when the earth itself is under assault from excessive development, the way we maintain our lawns, yards, and trees counts. In these matters, we should be guided not only by how our decisions affect our neighbors, but also by how our decisions may risk harming the environment. That is, given our understanding of the environmental impact of our actions, visual aesthetics and local attitudes may not be the only determining factors of bad neighborliness; environmental responsibility must also be taken into consideration. Manicured lawns require the greedy use of increasingly diminishing water resources, as well as fertilizers and pesticides that pollute the ground water (and, often, local drinking supplies). Letting one's grass turn brown when rain is scarce should become socially acceptable. Indeed, letting a lawn go unwatered might well be entirely proper in a place where water is scarce, unless brushfires are a threat. Better still is designing a yard that thrives on the rain and temperature patterns of the local climate. (Rabbi Lawrence Troster discusses the halakhic dimension of environmentalism in much more detail elsewhere in this volume.)

Avoiding the use of nutrient-heavy fertilizers may mean that one's lawn is not as lush as a putting green, but it might contribute to a healthier environment. Planting drought-resistant ground cover instead of a blanket of thirsty grass addresses many problems simultaneously. Contemporary lawn care and landscaping fads are not God-given ideals of beauty and homeownership, but are rather functions of ever-changing culture and custom. Sometimes being a good neighbor means bucking the trend and leading your community to greater awareness of a greater good. This, too, is halakhic behavior of the highest order, especially when it addresses issues of paramount ecological or environmental importance.

The same applies to the overall consumption of resources. The average size of new homes in the United States, for example, became a full fifty percent larger between 1971 and 2001. And with larger homes come larger utility bills, increased greenhouse gas emissions, the need for more complex landscaping services, and an overall increase in the use of limited natural resources. Modesty in our homes, and specifically in square footage, size of gardens, and the luxuriousness of appointments, speaks to an attitude of modesty in consumption and an abhorrence of waste that benefits everyone. Embracing that kind of modest living is also part of the *halakhah* of being a good neighbor.



### *Air Space*

Our property claims include the vistas around us. When we move into a home, it comes with a preexisting view—whether it be of a distant horizon or the façade of the building next door. We have the right to expect to see roughly the same distance (if not precisely the same view) on future days as we do today (cf. *M Bava Batra* 2:4). If there is no high fence today dividing us from our neighbors, we have the right to expect that no high fence will be constructed tomorrow. If we can enjoy the rays of sunrise today in our backyards, we have a right to expect to enjoy them tomorrow. Still, although every homeowner has the right to construct a fence on his property unless it is the custom not to or unless the fence unduly obscures the neighbor's view, no one may build a tall tower on his property that will impinge on neighbors' privacy over the objection of those neighbors (*MT Hilkhhot Sh'kheinim* 8:1).

### *Privacy*

One classic sticking point between neighbors has always been the age-old shortcut. Long ago, when walking was still the primary mode of transportation, neighbors expected each other to take the shortest distance between two points, even if that meant cutting across other people's property. Because everybody walked, all benefitted from the possibility of taking shortcuts, and most people indulged their neighbors in this minor act of trespass. Indeed, this was such an ingrained feature of urban life that the crotchety neighbor, famous for yelling at local children for cutting across her yard, was notorious precisely because she enforced a rule that most everyone agreed was to be observed mostly in the breach.

Even the Mishnah mentions the phenomenon of shortcuts. It speaks disparagingly, for example, of cutting through ruins of destroyed synagogues—thus suggesting that other kinds of shortcuts were widely used and considered acceptable (*M M'gillah* 3:3). It was not out of deference to the right of private ownership that the Mishnah outlawed such shortcuts, however; it was out of a desire to preserve the dignity of once-holy space. And, indeed, Maimonides opens the second chapter of the "Laws Governing Neighbors" section of the *Mishneh Torah* with a long series of laws governing the amount of space to which the entrances to houses of various sorts are naturally entitled (*MT Hilkhhot Sh'kheinim* 2:1–8). Clearly, privacy is deemed a natural right of people who live in homes! But so is the habit of walking freely for all. Public easements and private control are contested issues whose resolution often varies from neighborhood to neighborhood.



Similarly motivated is Rambam's ruling that "unwanted visibility is an actionable violation of privacy" (ibid. 2:14) and that the purchaser even of a garden can be compelled by the neighbors to put up a fence between that individual's newly acquired property and any adjacent gardens that belong to others (ibid. 2:17). Even the right of householders to install new windows in their own homes is contingent on their neighbors' willingness to allow themselves to be watched from a previously non-existent vantage point (MT Hilkhot Sh'kheinim 5:6). (Later on, at MT Hilkhot Sh'kheinim 7:1, however, Rambam notes that this law only applies to newly opened windows that look out onto preexistent courtyards; if one already has a window in one's wall and someone builds a courtyard on adjacent property, the latter does not have the right to protest even though the existence of the window will impact on one's privacy.)

Today, however, things are different and the propriety of cutting through someone's property to save a few steps is a bit more questionable according to modern societal norms. Still, how wonderful it would be, in locations and situations where walking is still commonplace (for example, in settings in which children walk to school or in the growing number of walkable communities), if neighbors could agree to overlook the technicalities of trespassing and grant their neighbors permission to cut across their yards, at least occasionally. In communities that do not walk, however, and in which neighbors hardly know one another, shortcuts may be considered legitimately taboo. Even more so, where this modest trespass is not publicly condoned, and especially where security issues are high, it can be downright dangerous to trespass on a neighbor's property without permission. In our highly litigious society, where even burglars occasionally display the supreme *hutzpah* of suing for damages connected with injuries incurred in the act of breaking and entering, property owners might choose to limit public access to their property for fear of being held responsible for any harm that might befall the trespasser, and would-be trespassers should in such cases simply obey the law of the jurisdiction in which they live.

### *Private Property*

Jewish texts (both narrative and legal) do not speak of private ownership of property in absolute terms, but rather of the private *use* of common property. All land is a gift from God given to us in trust. "The heavens belong to the Eternal, but the earth God gave to humanity," the psalmist wrote at Psalm 115:16. Scripture thus teaches that humans are given parcels of this earth to use, to watch over, and to care for on behalf of all humanity. We have the

right to privacy, of course, but throughout our stewardship, and throughout the time we possess the land, we would do better to think of ourselves instead as its guardians. As such, we have an obligation to pass the land on to the next generation in either the same or improved condition. Ultimately, we will relinquish our hold on the land and others will inherit the rights to its use. And that land will be expected to support and protect them, just as it did us.

The laws of the sabbatical year, according to which the land must be allowed to lie fallow and replenish itself every seventh year, and the jubilee year, according to which the land is returned to its original tribal owners every fiftieth year (as portioned out when the Jews first entered the land in the days of Joshua), together suggest how the *halakhah* views the whole concept of owning land. We can protect our use of the land. We can preserve our rights to behave in certain ways on the land. But we cannot claim to possess the land absolutely. There is no ultimate sovereignty over the land. And, when all is said and done, acknowledging that simple truth will lead us to become the best kind of neighbors not only to those who live around us, but also to those who will live here after we are gone. ❀