
The Laws of Creating an Eruv

Part II: List of Major Cities

As we explained in the previous chapter, some *Rishonim* requirement 600,000 residents for a city to attain the status of a *reshut harabim*. While this position prevents most towns and cities from having to cope with the issues regarding a *reshut harabim*, larger cities might nonetheless face them. In this chapter, we survey the opinions of contemporary authorities regarding certain specific cities.

Paris: Rav Chaim Ozer Grodzinski and the Chazon Ish

In the late 1930s, the rabbis of Paris asked Rav Chaim Ozer Grodzinski (the leading halachic authority at that time) if they could construct an *eruv* consisting of *tzurot hapetach* (vertical poles with strings running atop them) around their city. This method would only suffice if Paris were considered a *karmelit*, as opposed to a *reshut harabim*.

Rav Chaim Ozer consulted with the *Chazon Ish* (one of the most respected authorities in the laws of *eruvim*)¹ as well as the rabbis who supervised the Vilna *eruv*. Rav Chaim Ozer (*Teshuvot Achiezer* 4:8) opens his responsum by noting that over 600,000 people reside in Paris, so seemingly all authorities would consider it a *reshut harabim*. Consequently, an *eruv* consisting of *tzurot hapetach* cannot render it a private domain.

1. Rav Hershel Schachter and Rav Chaim Zimbalist have told this author that halachic authorities generally treat the *Chazon Ish* more authoritatively than even the *Mishnah Berurah* in the area of *eruvim*.

However, he notes that walls surround Paris on three sides, rendering it a *reshut hayachid* on a biblical level. There are bridges that pass over the walls, constituting breaches (*pirtzot*) in them.² Nevertheless, Rav Chaim Ozer claims that Paris is a *reshut hayachid* on a purely biblical level, since the walls on these three sides cover most of the perimeter (*omeid merubeh al haparutz*). Rav Chaim Ozer argues that, while any breach over ten *amot* (roughly fifteen to eighteen feet) invalidates a wall on a rabbinical level, breaches are insignificant on a biblical level as long as the majority of each of three sides of the perimeter remains enclosed.³ Since the breaches in Paris's wall are only problematic on a rabbinical level, the erection of *tzurot hapetach* suffices to permit carrying. Rav Chaim Ozer and the *Chazon Ish* thus conclude that *tzurot hapetach* suffice in Paris.⁴

Warsaw: Rav Shlomo David Kahane

Rav Shlomo David Kahane (the Rav of Warsaw during the 1930s) faced an interesting problem with Warsaw's *eruv*. During

2. See *Noda Biy'hudab* (1:42) and *Mishnah Berurah* (*Sha'ar Hatziyun* 363:95).

3. Rav Moshe Feinstein (*Teshuvot Igrot Moshe*, *Orach Chaim* 2:90) also rules that a breach of more than ten *amot* constitutes a problem only on a **rabbinical** level. See, however, *Mishkenot Yaakov* (120) and *Mishnat Rabbi Aharon* (1:6:12), who disagree and claim that such breaches invalidate the wall on a **biblical** level.

4. Also see *Chazon Ish*, *Orach Chaim* 107:5-7. He addresses a situation where buildings are close enough to one another that they occupy more space than the open gaps between them. After complex calculations, the *Chazon Ish* rules that, whenever at least one street ends or curves inside the city, it loses the status of *reshut harabim*. For an explanation of his reasoning, see Rav Hershel Schachter's essay in *The Journal of Halacha and Contemporary Society* (5:15-19) and Rav Yosef Gavriel Bechhofer's *The Contemporary Eruv* (pp. 56-66). See *Beit Yitzchak* 5753, pp. 61-69, for Rav Mordechai Willig's thorough analysis of this issue. Rav Willig notes that the Meiri (*Erwin* 20a s.v. *V'yeish*) appears to agree with the *Chazon Ish*. For criticisms of the *Chazon Ish*, see *Mishnat Rabbi Aharon* (1:6:12) and *Teshuvot Igrot Moshe* (*Orach Chaim* 5:28:1:3). Rav Shlomo Zalman Auerbach (*Minchat Shlomo* 2:35:22) takes the *Chazon Ish*'s view into consideration in case of great need.

It is unclear if Rav Chaim Ozer based his ruling in Paris on this opinion of the *Chazon Ish*.

GRAY MATTER

its construction in the nineteenth century, Warsaw's *eruv* consisted of *tzurot hapetach*. It was effective because fewer than 600,000 people resided within it. However, in the twentieth century, Warsaw's population exceeded 600,000, seemingly invalidating the *eruv*. Rav Kahane (cited by Rav Menachem Kasher in *Noam* 6:34) rules that the *eruv* is nonetheless valid, asserting that the larger a city grows, the less chance there is for any one street to run straight through it, without curving significantly. One requirement for a *reshut harabim* is that a street must go **straight** through the entire city.⁵ Accordingly, Warsaw does not meet this requirement and is still not a *reshut harabim*. Rav Moshe Feinstein criticizes this approach (see *Teshuvot Igrot Moshe, Orach Chaim* 1:140), rejecting the argument that the street cannot curve. He claims that a street that runs from one end of town to the other turns it into a *reshut harabim*, curves notwithstanding, provided that it meets the other criteria for a *reshut harabim*. Thus, in a place that meets the other requirements for a *reshut harabim*, *tzurot hapetach* do not suffice.

Flatbush: Rav Yosef Eliyahu Henkin and Rav Moshe Feinstein

During the 1970's, the construction of the *eruv* in Flatbush (a neighborhood of Brooklyn, New York) aroused great controversy. To this day, its permissibility remains disputed. The Va'ad Harabanim of Flatbush permits carrying inside the Flatbush *eruv*, while many rabbis and *rashei yeshivah* there, such as Torah Vodaath's Rav Yisroel Belsky (personal communication), forbid its use.

Rav Yosef Eliyahu Henkin (*Kitvei Hagaon Rav Y.E. Henkin* 2:25) strongly encourages the construction of *eruv* in New York's five boroughs, including Brooklyn (whose population easily exceeded 600,000 already in his day). Although Rav Henkin does not explain why these places are not *reshuyot harabim*, a number of arguments have been offered to support his contention that Flatbush is not in this category. First, Rav Shlomo David

5. See *Shulchan Aruch* (O.C. 345:7) and Rav Mordechai Willig (*Beit Yitzchak* 25:63-65).

Kahane's argument regarding the Warsaw *eruv* seemingly applies to Flatbush, too, because no street within the Flatbush *eruv* runs straight from one end of the city to the other.⁶

Second, the ruling of Rav Chaim Ozer Grodzinski and the *Chazon Ish* also seems to apply to Flatbush. The faces of the buildings and the fences along the Belt Parkway appear to constitute the majority of a wall on three sides.⁷ (Ironically, this lenient consideration is most often applicable in densely populated urban areas rather than smaller suburbs, which frequently have much empty space between buildings.)

Third, the *Aruch Hashulchan*'s unique (but highly questionable) approach might be taken into account (*Orach Chaim* 345:19-24). In his opinion, a street must be the only inter-city thoroughfare or commercial center in that city to be a true *reshut harabim*, with all other streets being minor in comparison. Accordingly, only in the time of the Talmud did true *reshuyot harabim* exist, because it was common for a town to have only one main street.⁸ Nowadays, most towns and cities have more than one inter-city thoroughfare and commercial center, so we do not have true *reshuyot harabim*. Brooklyn certainly has multiple commercial centers and inter-city roads, so the *Aruch Hashulchan* would not consider it a *reshut harabim*.

Rav Moshe Feinstein (*Teshuvot Igrot Moshe*, *Orach Chaim* 4:87) vigorously disputes the *Aruch Hashulchan*'s argument, citing

6. Even Flatbush Avenue and Bedford Avenue bend at various points; Ocean Parkway does not extend from one end of Brooklyn to the other.

7. The *Chazon Ish* (O.C. 107:5-7) requires that there be at least one street in the town that either bends or ends inside the town. Brooklyn meets this requirement, as we have explained in the previous footnote.

8. The *Aruch Hashulchan* refers to the *srafiya* and *platiya* described in *Shabbat* (6a). It is unclear if the *Aruch Hashulchan* requires that a *reshut harabim* be **both** the only commercial center **and** the only inter-city route, or if he suffices with **either** condition. See his comments in O.C. 345:26, where it appears that he suffices with **either** condition.

a proof to the contrary from the Gemara (*Shabbat* 96b).⁹ The *Divrei Malkiel* (vol. 3, p. 267) also writes that one may not rely on the *Aruch Hashulchan's* novel insight, since it does not appear in any earlier source. Rav Aharon Lichtenstein (personal communication) conveyed sentiments similar to those of the *Divrei Malkiel* and Rav Moshe. Moreover, a careful reading of the *Aruch Hashulchan* seems to reveal that he sought to use his novel suggestion only as an adjunct (*senif*) to the view that a true *reshut harabim* requires 600,000 people. He never suggests relying on his idea without other grounds for leniency. Accordingly, the *Aruch Hashulchan's* view cannot be relied upon as the sole reason for permitting carrying within an area that contains more than 600,000 people.

A fourth defense of the Flatbush *eruv* is the opinion of Rav Efraim Zalman Margoliot (*Beit Efraim, Orach Chaim* 26) that only pedestrians count when determining that 600,000 people travel in a street. He argues that the requirement for 600,000 people is based on a comparison to the encampment in the desert. The comparison can thus be made only to pedestrians, as the 600,000 people who were in the quintessential *reshut harabim* were all pedestrians. The Maharsham (1:162) and Rav Eliezer Waldenberg (cited in *The Contemporary Eruv*, p. 54 note 119) add that trains and cars are private domains unto themselves, so their occupants are not counted among the 600,000 people of a *reshut harabim*. Both Rav Moshe (*Teshuvot Igrot Moshe, Orach Chaim* 1:139:6) and Rav Binyamin Silber (*Teshuvot Az Nidberu* 6:70) reject this argument, pointing out that wagons (*agalot*) were used in the desert encampment's thoroughfares.

9. The Gemara describes how carrying **in a *reshut harabim*** occurred during construction of the *mishkan*. This work was not done in **the** main thoroughfare of the desert encampment, yet the Gemara states that it was done in a *reshut harabim*. Rav Moshe thus concludes that a city, like the desert encampment, can have multiple public centers and still be a *reshut harabim*, thus disproving the *Aruch Hashulchan's* opinion.

Despite all of the arguments in favor of being lenient, Rav Moshe did not endorse the construction of the Flatbush *eruv* (see *Teshuvot Igrot Moshe, Orach Chaim* 4:87-88). He explicitly rejects all of the arguments presented and rules that the 600,000 people who regularly travel the streets of Brooklyn render it a *reshut harabim*.¹⁰

Kew Gardens Hills

Although Rav Moshe did not approve of constructing an *eruv* in Flatbush, he did permit the *eruv* in the Kew Gardens Hills section of Queens, New York. Rav Moshe stipulated the following requirements for the *eruv* to be acceptable:

- 1) All highways (Grand Central Parkway, Long Island Expressway, Van Wyck Expressway) were excluded from the *eruv*, because many authorities maintain that highways always constitute *reshuyot harabim*.¹¹ Similarly, the *eruv* in Teaneck, New Jersey excludes Route 4 due to concern that it is a *reshut harabim*.¹²
- 2) It was constructed in a manner that greatly reduces the possibility of breakage during *Shabbat*. A communal *eruv* that

10. Rav Moshe's concern was not for 600,000 **residents** but for 600,000 people **traveling** the streets at any time (drivers and pedestrians) within an area that is twelve *mil* by twelve *mil* (approximately eight miles by eight miles). He thus requires that the population be so great that 600,000 people are regularly found in the streets. Rav Moshe estimates that this requires at least 2.4 million residents. Rav Moshe is the lone authority who requires such a large population, and even he (O.C. 4:87) expresses reservations about his view, noting that no other authorities mention it. Nevertheless, Brooklyn is so populous that even Rav Moshe considers it a *reshut harabim*.

11. See Ramban to *Eruvin* 59a (s.v. *Verash Atzmo*), *Mishnah Berurah* (345:17), and *Teshuvot Bnei Banim* (1:17-20).

12. Route 4 also has the problem that it passes over the *tzirot hapetach* and is thus not encompassed by them (see *Mishnah Berurah* 363:118).

GRAY MATTER

uses as many pre-existing components as possible, such as preexisting telephone poles and wires, fences, hills, and train overpasses (see, however, *Teshuvot Igrot Moshe, Orach Chaim* 1:138), has the greatest chance of remaining intact.

3) An individual was appointed to inspect the *eruv* every Friday; it must be rigorously inspected before every *Shabbat* (see *Teshuvot Doveiv Meisharim*, 2:28, who disapproves of inspecting an *eruv* before Friday).

4) The rabbis of the community were required to approve of the *eruv* and mutually agree that it was built properly, as an *eruv* should promote peace and not be a source of tension within a community (see *Gittin* 59a).

Regarding the issue of *reshut harabim*, Rav Moshe wrote that "Kew Gardens Hills is small regarding these issues and the reasons I wrote [for not allowing an *eruv* in other parts of New York City] do not apply here." Although the borough of Queens has more than 600,000 inhabitants, Rav Moshe apparently viewed Kew Gardens Hills as a separate entity. *Tzurot hapetach* thus sufficed, since fewer than 600,000 people resided in it.

Tel Aviv

Not all halachic authorities agree with Rav Moshe's ruling to view certain neighborhoods as distinct entities within a large city. Rav Shaul Yisraeli (*Techumin* 10:140) writes that a city constitutes one halachic entity for purposes of defining a *reshut harabim*. Moreover, the sole halachic criterion defining an area as a city is a contiguity of homes (see *Shulchan Aruch, Orach Chaim* 398), but not municipal boundaries. Accordingly, he rules that the entire Tel Aviv metropolitan area (known as Gush Dan) should be viewed as one entity regarding the *reshut harabim* issue. Since more than 600,000 people reside in Gush Dan, it constitutes a *reshut harabim*.

The Tel Aviv *eruv* today consists of *tzurot hapetach*, so Rav Yisraeli offers a suggestion for how Gush Dan may yet be a *karmelit*. He explains that the overwhelming majority of the observant community in Tel Aviv relies on the *eruv* because it follows the *Shulchan Aruch*'s presentation (*Orach Chaim* 345:7) of the view that requires 600,000 people for a *reshut harabim*. He implies that 600,000 people must pass through a **particular street** every day for it to be a public domain. Rav Yisraeli notes that the *Mishnah Berurah* (345:24 and *Sha'ar Hatziyun* 345:25) rules that 600,000 people need not pass through a particular street for the town to be defined as a *reshut harabim*. According to the *Mishnah Berurah*, anywhere with 600,000 residents is a *reshut harabim*.¹³

The residents of Tel Aviv thus rely on an extraordinarily lenient approach. They follow the lenient understanding (*Shulchan Aruch*, to require 600,000 on one street) of the lenient opinion (Rashi, that 600,000 people are required for a *reshut harabim*)! Rav Yisraeli explains that it is possible to be so lenient only because we follow the opinion of those *Rishonim* (cited in *Biur Halachah*, 364:2 s.v. *Ve'achar*) who rule that *tzurot hapetach* suffice on a biblical level for even a *reshut harabim*. Because *tzurot hapetach* are only invalid in a *reshut harabim* on a rabbinical level, it is possible to permit lenient practices that would otherwise be unacceptable.

Rav Naaman Wasserzug (*Techumin* 11:163-169) provides a different defense of the Tel Aviv *eruv*. He argues that, on a Torah level, Tel Aviv is a *reshut hayachid*, because it is enclosed by "halachic walls" on three sides.¹⁴ It has the sea on the west, the Ayalon Valley on the east, and the Yarkon Valley on the

13. Rav Moshe Feinstein (*Teshuvot Igrot Moshe*, O.C. 4:88) requires that the 600,000 people be within an area which is twelve *mil* by twelve *mil* (approximately eight miles by eight miles).

14. This is similar to the ruling of Rav Chaim Ozer Grodzinski and the *Chazon Ish* concerning Paris.

GRAY MATTER

south.¹⁵ According to this approach, the residents of Tel Aviv are not relying on such a radically lenient ruling.

Conclusion

In addition to the issues discussed in this chapter, this author's experience indicates that virtually every community *eruv* encounters challenges and difficulties during construction and maintenance. Accordingly, before relying on any community *eruv*, one must consult a halachic authority familiar with both the laws of *eruv* and the details of the *eruv* in question. Our discussion in this chapter only addresses certain issues of interest regarding each *eruv*, but we have not researched the *eruv* sufficiently to ensure that they are fit for use on *Shabbat*. Furthermore, due to the difficulties in maintaining an *eruv*, no one can ensure that *eruv* that are presently acceptable will remain this way in the future.¹⁶

15. The Halachah recognizes these places as valid walls; see *Shulchan Aruch* (*Orach Chaim* 345:2 and 362:3).

16. See this author's article "Advice for Proper Eruv Maintenance" in Yeshiva University's *Chavrusa* (April 1993, pp. 5-6).