

At the Supreme Court
Sitting as a High Court of Justice

HCJ 7891/07
Scheduled March 23, 2011

1. **Peace Now, Shaal Educational Enterprises**
2. **Hagit Ofran**
Represented by Attorneys Michael Sfard, Shlomi Zacharya
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The Petitioners

Versus

1. **The Minister of Defense**
2. **Commander of IDF Forces in the West Bank**
Both Represented by the State Attorney's Office
Ministry of Justice, Jerusalem
Tel.: 02-6466701, fax: 02-6467011
3. **Karnei Shomron Regional Council**
4. **Gush Etzion Regional Council**
5. **Mt. Hebron Regional Council**
6. **Mate Binyamin Regional Council**
Represented by Attorney Silvetzky et al
Keren Hayesod 27, Jerusalem
Tel.: 02-624-8877, fax: 02-624-8553
7. **Dror Bar Levav et al**
Represented by Attorney Amos Fried
Ramban 5, Jerusalem
Tel: 02-622-2510, 054-493-1359, fax: 02-566-6646

The Respondents

Complementary response affidavit on behalf of respondents 1-2

1. In accordance with the decision of the Honorable Court from October 19, 2010, the respondents were moved to submit a complementary response affidavit concerning the contents of the main arguments submitted on October 19, 2010. The respondents were also moved to address the petitioners' arguments concerning new construction in the area that is the subject of the petition after the order nisi was given.
2. In keeping with the decision of the Honorable Court, we hereby submit the following update.
3. At the outset we would like to state the following. On February 28, 2011 the Prime Minister convened a meeting he chaired to discuss the various possibilities on the agenda concerning the issues raised by this petition (as

well as other petitions). This meeting was attended by the Defense Minister, the Minister of Domestic Security, other ministers, the attorney general and other relevant parties.

4. At the conclusion of the meeting the groundwork was laid out for a combined policy concerning the demolition of illegal construction on private land and settling the status of construction on state land, so that, as a rule, illegal construction located on private land would be removed, and simultaneously, the appropriate professional echelons were instructed to act to settle the planning status of buildings located on state land, in the places where it is decided to settle the status. All in accordance with other relevant considerations related to the case of each individual place.
As for the construction that is the subject of this petition, the professional echelon was instructed to act to remove illegal construction located on private land by the end of this year.
As for the buildings that are the subject of this petition, which are located on land that is not private land, their cases will be considered in the future. In any case, considering the aforesaid, the respondents' enforcement efforts will now be directed at executing enforcement on private land. The said buildings are not a high priority for the respondents.
5. We stress that the issue of construction in Judea and Samaria, as well as the demolition of illegal buildings, are key issues in Israel's political discourse. Therefore, the government is required to make all the relevant considerations when it sets out to implement a policy. Therefore, political considerations have an impact on priorities and law enforcement in the area.
6. As was submitted to the Honorable Court before, the Defense Minister did confirm that priorities in exercising demolition orders will be set in the following order:
 - a. Demolition orders based on judicial decisions.
 - b. Demolition orders concerning construction in its initial stages, in circumstances where it is important to respond quickly before the completion of construction and inhabitation of the buildings.
 - c. Demolition orders for buildings on land whose status is settled and which is under private Palestinian ownership.
 - d. Demolition orders for buildings on land whose status is not settled and is not state land.
 - e. Demolition orders for buildings in unauthorized outposts built after March 2001.
 - f. Demolition orders for buildings in illegal outposts built before March 2001.
 - g. Demolition orders for buildings located outside of detailed and approved planning schemes.
 - h. Other buildings.

7. As explained in the past, **the aforementioned priorities are subject to future changes of circumstances as there may be**. And indeed, during the period when the construction suspending order was in effect, it had a clear impact on priorities and this was detailed in the response affidavit.
8. Either way, respondents 1-2 believe that considering the aforementioned in section 4, this petition has exhausted itself and should be stricken out.
9. As aforesaid, in the decision of the Honorable Court from October 19, 2010, the respondents were moved to address the petitioners' arguments concerning new construction built in the area that is the subject of the petition, after the order nisi was given. We hereby make the following update.
10. Inspections by the supervision unit found that in the outpost of Maale Rehavam a new building was built out of cinder blocks on an area of 80 m². The building is within the boundaries of the outpost and the demarcation order applies to it and therefore no separate stop work order was issued for the building itself.
11. The unit also found that expansion of existing construction was undertaken in the outpost of Givat Asaf; construction was undertaken on top of an illegal building that had been demolished before by way of self-demolition; and new light construction was undertaken in the northwestern corner of the outpost. In the outpost of Givat Haro'e it found that light construction buildings were built on three concrete surfaces. All of the aforesaid construction is located inside of the demarcation orders.
12. We would also like to briefly address the activity of the Civil Administration's supervision unit, pursuant to what was said in the response affidavit.
13. A large part of the activity of the supervision unit in the Civil Administration in Judea and Samaria is aimed at preventing the construction of new outposts. Indeed, many attempts since 2005 to build new outposts in Judea and Samaria were thwarted and not a single new outpost has taken hold to this day.
14. We would like to stress that in the last two years the number of demolition orders carried out in the Israeli sector in Judea and Samaria has exceeded the number in the Palestinian sector, even though the number of illegal buildings in the Palestinian sector significantly exceeds the number in the Israeli sector, and the broad considerations the authority must consider also include the principle of equal enforcement.
15. Following are current figures concerning enforcement in the Israeli and Palestinian sectors in recent years (including the period of the building suspension order):

Year	Detections		Total demolitions		Demolition by Civil Administration/ Supervision Unit		Self-demolition	
	Pal.	Israeli	Pal.	Israeli	Pal.	Israeli	Pal.	Israeli
2005	795	425	157	64	137	9	20	55
2006	502	301	264	147	186	47	78	100
2007	638	291	218	132	149	49	69	83
2008	646	293	111	105	72	67	39	38
2009	960	587	76	196	30	84	46	112
2010	1204	689	172	167	110	104	62	63

16. In light of all of the aforesaid, respondents 1-2 will argue that this petition has exhausted itself and must be stricken out.
17. The facts detailed in sections 3, 4 and 5 are supported by an affidavit by Zvi Hauser, government secretary.
18. The facts detailed in sections 9-13, the beginning of 14 and 15 are supported by the affidavit of Mr. Rami Ziv, deputy director of the supervision unit.
19. This complementary response affidavit is supported by the affidavit of Mr. Eitan Broshi, assistant to the defense minister for settlement affairs.

Today, 1 Adar B, 5771

March 7, 2011

[Signed]

Ori Keidar

Senior Deputy State Attorney

[Signed]

Omri Epstein

Assistant State Attorney