



TORAH VEHA'ARETZ

INSTITUTE

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The Responsibility Of Individuals For Planting Flowers And Trees In Their Municipality During Shemitah

I am a resident of Modi'in and the municipality is currently expanding the road and planting flowers and trees alongside it. Since I pay municipal taxes, public land is also mine to a certain extent. Am I violating *shemitah*? Was *heter mechirah* employed?

Answer:

Heter mechirah was never meant for gardening, rather for agricultural purposes. Unfortunately, few municipalities in Israel decided to plant during this *shemitah*. To minimize *shemitah* violation in such places it is preferable to sell the land, but this is not optimal. We checked with the rabbanut of Modi'in, who told us that the municipality sold its land to a non-Jew and that only non-Jews are involved in planting activities. The basic guidelines during renovations is wait until after *shemitah* to plant trees and

flowers. Note that also **filling in soil** after renovation is problematic, since it prepares the ground for future planting. Our instructions *lechatchilah* are to lay soil but save 10–30 cm, which should be filled in after

shemitah or to fill in the upper 30 cm with material that is not fit for planting, such as gravel. After *shemitah* the gravel can be removed and replaced with soil.

Am I transgressing *shemitah* if the municipality is?

Rabbi Moshe Sternbach in *Teshuvot Vehanhagot* (5:305, 5765) relates that the Chazon Ish warned the gardener of the Bene Berak

municipality that if he performs forbidden work in the city's gardens, all of the city's residents will be violating *shemitah* since (1) public land also belongs to residents and (2) the municipality cares for the gardens



on their behalf. However, continues Rabbi Sternbach, if an individual protests and declares that he is against these forbidden activities, he does not transgress *shemithah* prohibitions. Rabbi Nissin Karelitz (*Chut Hashani*) writes similarly.

In conclusion: Complain to the Urban Improvement Department (SHEFA) or the municipality. It is best to also petition to religious council members and the city rabbi. After you protested the violation, you are no longer held accountable and are not considered violating *shemithah* prohibitions.

In cases where the municipality performed *heter mechirah*, such as Modi'in, it seems there is not a need to protest (even those who do not rely on *heter mechirah*) since the municipality relies on rabbis who are lenient. ■

ב"ד



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