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Jerusalem, November 22, 2014

Our number:
(Please cite in response)

To:
GOC Home Front Command
By fax: 08-9783349

Dear Sir,

**Re: Objection to the intent to seize, destroy and seal the
Hijazi family home in Jerusalem**

On behalf of members of the captioned family, whom we represent on behalf of HaMoked: Center for the Defence of the Individual and Addameer – Prisoner Support and Human Rights Association, I hereby file an objection to the intent to seize and destroy the captioned family home:

1. The family received notice of your intent to seize, demolish and partially seal an apartment located on the ground floor in a two-story building in the Abu Tur neighborhood in East Jerusalem, pursuant to Regulation 119 of the Defense (Emergency) Regulations – 1945, on the grounds that a member of the family, _____, had committed a terrorist attack involving gunfire.
2. **We wish to note at this early stage, that said apartment must come to no harm while proceedings regarding the intent to demolish and seal it are underway. Moreover, we hereby give notice of our intent to challenge the intention to seize, demolish and seal said apartment before the Supreme Court. We must be given a reasonable amount of time, four days at least, to prepare and file the petition, without any harm done to the home in the interim.**

Unreasonable amount of time:

3. As I stated in my letter of November 20, 2014, a 48-hour deadline for filing an objection does not leave sufficient time to collect information, gather documents, visit the home if necessary and prepare the objection, particularly when some of this time falls on a weekend. The extension that has been granted for filing the objection, until November 23, 2014 at 10:00 A.M. does not render the time given reasonable and does not allow to effectively defend against this intent.
4. It is all the more so given that the final clause of the notice issued by your office to the family on November 19, 2014, and delivered to the family on that date close to 10:00 P.M., stated: **“Any factual or legal argument you make you must be supported by documents and other evidence, which must be attached to your letter to the military commander”**. It is unclear what documents could be obtained in such a short time, or perhaps the requirement was made in order to add to the desired deterrent/intimidating effect.
5. The very short leave, which makes filing an objection impossible, and the haste to carry out the demolition, raises grave concern, to understate, that the decision has already been made and that the hearing is merely meant to give it legitimacy. Nevertheless, we submit this objection as though it were a genuine hearing.
6. **In any event, in this matter, we request that you delay your decision in this objection in order to allow us to make an in-depth inquiry and obtain documents.**

The apartment which is the subject of your notice:

7. The apartment is located in a two-story, four-apartment building. The apartment is located on the ground floor, with another apartment directly above it. The apartment is home to the father, Ibrahim, 67, who suffers from diabetes and a herniated disk, the mother Shadya, 55, who has a heart condition and suffers from epilepsy, the son ‘Adi, 28, an electrical engineer and the daughter Shaimaa, 26, a social worker.

The entire building is owned by the late grand-father, _____ Hijazi, who bequeathed the apartments to his sons.

The execution of the demolition and partial sealing:

8. Your notice did not specify how the apartment would be demolished and partially sealed. We wish to inquire, at this stage, how the demolition and sealing of the apartment will take place, why this method of demolition has been chosen, and whether the collateral damage to nearby apartments and buildings should they sustain damage as a result of a demolition meant as a show of force has been taken into account.
9. The fact that there is an additional apartment directly above the family’s apartment raises concern that the demolition will damage the entire building, particularly the apartment directly above. For this reason alone, the demolition of the apartment must be avoided.

Collective punishment:

10. There can be no doubt that the demolition of the family home constitutes collective punishment and harms innocents. No argument has been made that the family or any of its members were involved in the act attributed to the family member or that they had prior knowledge thereof.
11. As such, the demolition constitutes a breach of international humanitarian law which prohibits collective punishment (Art. 33 of the Fourth Geneva Convention) and the prohibition against damage to and destruction of private property under Art. 46 of the Hague Regulations and Art. 53 of the Fourth Geneva Convention. The demolition of the home also constitutes a severe violation of the family's dignity and their right to an adequate standard of living and to housing.
12. Your objective at the time the decision to harm the apartment does not alter the nature of this measure or its impact on the family. In practice, the demolition of the apartment harms the family and the family alone!
13. It is no coincidence that the power to demolish family homes is found in the Emergency Regulations, regulations that have long since been obsolete, passed into law in 1945, in the previous century, during mandatory rule, near the end of the World War II. This power belongs in a different era, an old era, an era that should be neither resurrected nor relived. It is time that this relic also passes from this world, just as most of the other Emergency Regulations have been revoked.
14. Jewish law also unequivocally forbids harming innocents:

Far be it from you to do such a thing—to kill the righteous with the wicked, treating the righteous and the wicked alike. Far be it from you! Will not the Judge of all the earth do right?"
(Genesis 18:25)

Proportionality:

15. Without prejudice to the objection-in-principle to the demolition of the home, as stated in the objection herein, we request that inasmuch as a decision is made to take this measure, the least injurious option is chosen.
16. The principle of proportionality applies to the exercise of power under Regulation 119. This principle requires selecting the least injurious of the available options. It appears that if the apartment must be harmed, it would be appropriate to consider an option that would allow the family to continue living there, one of sealing the room occupied by Mu'taz rather than rendering the entire family homeless.

The demolition of the home will serve no purpose:

17. In any event, and even if this injurious, inhumane act, can be justified in the name of some benefit that will come of the demolition, an "ends justifies the means" scenario, here, the game is not worth the candle: **In 2005, the Minister of Defense accepted the recommendations of a Chief-of-Staff appointed committee to halt house demolitions as**

they had not been proven as an effective deterrent and as the harm they caused outweighed their benefit.

18. There is no need for experts and committees to see that such harm, harm that leaves children and families homeless, can only exacerbate frustration, amplify feelings of despair and anger and fuel the cycle of hate among the affected population.
19. It is all the more so given the fact that following the incident, a special force arrived at the family home and killed Mu'taz. Is this swift killing not enough to achieve the desired deterrent effect?

Discrimination:

20. The family of Ami Popper, who killed innocent laborers, did not hasten to leave its home, as such a sanction never hung over its head. The Goldstein family, though residing in the OPT, never considered looking for alternate housing after its son massacred dozens of worshippers (and, on this issue, the matter of his **headstone**, was handled with surgical restraint). The cell of Jewish civilians who planned to hide explosives in an educational institution in Jerusalem, and conspired to carry out other attacks, required no special measures, other than being put on trial. It seems that the answer to the question if the military commander is considering the demolition of the homes of the persons who abducted, burned and killed Muhammad Abu Khdeir is self-evident.
21. The authorities have been known to use restraint with respect to the "deterrent measures" at their disposal even in grievous cases that cried out for deterrence, and avoid harming innocents. This path should be followed in the matter at hand as well.
22. The fact that the measure of house demolitions has never been used against Jewish families, either in Israel or in the OPT, amplifies the frustration, the sense that discrimination is at play and the feeling that this harm, directed at innocents, is reserved for Palestinians only.
23. In light of all the aforesaid, we request that you do not seize, demolish and seal the apartment.

Sincerely,

Labib Habib, Adv.