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At the Supreme Court
Sitting as High Court of Justice

H CJ 6745/15

1. **Abu Hashiyeh, ID No.** _____
2. **Abu Hashiyeh, ID No.** _____

Represented by Adv. Lea Tsemel and others
2 Abu Obeida Street, Jerusalem
Tell: 02- 6273373, Fax: 02-6289327

The Petitioners

V.

Military Commander of the West Bank Area

Represented by the State Attorney's Office
Ministry of Justice, Jerusalem
Tel: 02-6466246, Fax: 6467011

The Respondent

Notice on behalf of the State

In accordance with the decision made by the Honorable Court at the conclusion of the hearing held on October 21, 2015, the State respectfully submits its notice as follows:

1. The petition concerns the seizure and demolition order issued against a residential apartment in the "New Askar" Refugee Camp in Nablus where _____ Abu Hashiyeh (hereinafter: "**the terrorist**") resided (hereinafter: "**the terrorist's apartment**").
2. On October 21, 2015, a hearing on the petition was held before the Honorable Court and at its conclusion the court determined as follows:

"We raised the idea before the Respondent and a reply will be given, as promised, by the beginning of next week."

3. At this time the State requests to present its updated position, according to which, in the overall circumstances of the matter, it is appropriate to order the seizure and demolition of the apartment on the ground floor of the building that is the focus of the petition.

4. This position is based on the conditions specified below.
5. Firstly, we will note that the State's updated position was formulated after an examination of the issue by the political echelon and after hearing the relevant professional bodies. This examination led to the conclusion that a partial demolition of the terrorist's apartment will not achieve the optimal purpose of deterrence which is the basis of the Regulation and it is, therefore, inappropriate to be satisfied with it.
6. Secondly, it will be clarified that after the issue was examined by professional Israel Defense Forces bodies, it was found that in the case at hand it is also not operationally possible to execute the order pursuant to Regulation 119 by means of fully or partially sealing the apartment in consideration of the characteristics of the location of the building, and in absence of an operative feasibility for bringing the necessary engineering equipment to execute the sealing without there being security and environmental ramifications in the area of the Askar Refugee Camp. Consequently, the option of sealing the terrorist's apartment (located on the ground floor of the building) is not a possible alternative, and it must be demolished.
7. In light of the aforesaid, the State's position is that it is appropriate to fully implement the Order that is the focus of the petition at hand.
8. And in conclusion, the State will seek to clarify that, as it indicated orally during the hearing before the Honorable Court, the intention to issue the demolition order was formulated during the month of July 2015, **prior to the events of the past weeks**, at the same time that a plan was formulated to issue a notice on the intention to exercise the power pursuant to Regulation 119 against the house of a terrorist house which was the subject of the HCJ 5839/15 **Sidr v. the Military Commander of the West Bank** (published on the Judiciary Authority website on October 15, 2015; hereinafter: the "**Sidr case**"). However, for operative reasons, *inter alia*, considerations of the location and characteristics of the building that is the focus of the petition - the area of the Askar Refugee Camp - a notice regarding our intention relating to the present matter was only given to the terrorist's family on October 3, 2015, as described in the State's Response of October 19, 2015.

In these circumstances, the State believes that there is no relevant difference between the present matter and the one deliberated in the **Sidr case** that would justify reaching a different legal conclusion in the case at hand.

9. The facts specified in this notice concerning the Respondent are supported by the affidavit of Colonel Ido Mizrachi, Central Command Engineering Commander.

The facts detailed in this notice regarding the position of the political echelon are supported by the affidavit of Mr. Yossi Cohen, Head of the National Security Council.

Today: 16 Heshvan 5776
October 28, 2015

[Handwritten signature]

Yochi Genesin, Adv.
Senior Department Director (Administrative Affairs)
at the State Attorney's Office

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Yonatan Zion-Moses, Adv.
Deputy Attorney
at the State Attorney's Office