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## **Lea Tsemel, Attorney and Notary**

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October 17, 2015  
Houses 5/12

To:  
Colonel Israel Shomer  
Deputy Brigade Commander  
Acting on behalf of the IDF Commander  
Central Command Headquarters Office  
West Bank  
Tel: 02-5305104

[pniot-tzibur@mail.idf.il](mailto:pniot-tzibur@mail.idf.il)

Dear Sir,

**Re: Objection against the intent to expropriate and demolish a building where the deceased,  
\_\_\_\_\_ Halabi, ID \_\_\_\_\_, had resided**

An objection is hereby submitted against the notification of the Commander of the Central Command of October 15, 2015 regarding his intent to expropriate and demolish the building where the deceased, \_\_\_\_\_ Halabi, had resided.

The Order is directed against a rented house in the al-Rihan neighborhood in the village of Surda where the deceased's family lives.

Following are the objection's arguments:

**A. The building inhabited by the deceased's family:**

The order is directed against a rented, two-story, 360 sq. meters, house, that includes a lounge, living room, kitchen dining room and two bathrooms on the first floor and 6 bedrooms, a living room and three bathrooms rooms on the second floor. Six people – two parents and 4 children – reside in the house.

The house does not belong to the deceased's family, but is owned by Mr. \_\_\_\_\_ Shraka, a resident of Ramallah. The deceased's family rented it in 2004 and it has since been its place of residence. There is no family tie between the landlord, Mr. Shraka, and the deceased's family.

**The rental contract and home ownership documents are attached hereto**

The house is surrounded by near-by buildings.

The deceased, who was 20 years of age, has lived since he reached adulthood in a separate unit consisting of a room with an attached bathroom on the second floor,

**B. The relevant section of the building:**

After several welcomed years during which the house demolition policy was not implemented, this policy was, unfortunately, resumed. It must be noted that since the resumption of the home demolition policy you **ensured that only the parts of a house that were a suspect's place of residence were demolished.** The only home demolition, deliberated in HCJ 4597/14, (Mahmud \_\_\_\_\_Awadah et. al), to be approved related to the specific apartment where the suspect himself lived, and not to the whole residential building. Demolition orders were simultaneously issued against residents of Hebron, whom you allegedly considered to be the suspect's accomplices in the offense in question, Mr. Hussam Qawasme and Mr. Amar Abu Aisha, were also directed against the sections of the house that had served as their personal residence.

On the map you attached you marked the entire, two - story, building instead of indicating that you only intend to destroy the area that served as the individual residence of the above referenced person.

Should you intend to implement the demolition, no part of the house other than the aforementioned room and its attached bathroom must be destroyed.

**C. The grounds for demolishing the house:**

According to the notification, the intent to demolish the house was reached due to the fact that the aforementioned individual committed a terrorist attack on October 3, 2015 during which Aharon Benet and Nehemia Lavie were stabbed to death. The above mentioned deceased was shot to death during the event. He was not interrogated, and his account of the event was not heard.

There is no contention and no evidence whatsoever that his parents or other relatives who lived with him knew he intended to commit the above act. The precepts of Justice and logic mandate that a person shall not bear another person's guilt.

**D. The purpose of the demolition:**

In the past, you usually stated that the purpose of a demolition is to deter potential assailants and augment the protection of the safety of the area.

We know with absolute certainty, and recent events categorically support this perception, that this is only a presumption that has no factual foundation. The ongoing succession of youths who carry out various attacks demonstrates that they know that they are putting their lives at risk, that odds are high that they will not survive, and that inherent in their willingness to sacrifice their lives is the awareness that collective punishment will be imposed against their family – and yet this does not deter them.

Therefore, there is no **assurance** whatsoever that the grave harm you intend to carry out will enhance the security of the area or deter assailants. This is only a distant likelihood, and as determined by the Shani Committee, this is a **highly dubious possibility, whose harm to the security of the area is greater than its benefit**. This committee was appointed by the military Chief of Staff and submitted its conclusions to the Minister of Defense in 2005, and for a long time since then, the policy of demolitions has not been implemented in the area of the West Bank.

Your notice does not mention the real purpose for which it was issued – **revenge** of the powerful that feels that its strength is diminishing, and unrestrained harm and thrashing in all directions due to utter confusion and the lack of understanding of why the use of force has failed. A retort that determines that “more force will succeed” is an erroneous response that generates further resistance which disregards the consequences and lacks any long term foresight.

It is an open secret that a policy of comprehensive harm to the whole population has been adopted, without consideration or reservation. Your belated notice regarding the deceased and the families of many other youths, which was not issued immediately after an offense was committed, is but the implementation of this decision at an opportune time.

#### **E. Collective punishment:**

It is known that the relatives and parents of the person in question, and of course the landlords, have no ties to his deeds and no culpability has been proven against them. Nevertheless, they are about to become the principal victims of the sanction, should it be approved.

The planned harm to innocent persons again and again substantiates the feeling of discrimination, helplessness, deadlock, which is igniting the sparks of the current Intifada. The implementation of your intent against uninvolved persons will present the government as being dissatisfied with the killing of the deceased, and as needing more and more symbols of power.

#### **F. Collective punishment is contrary to international law:**

Is it really necessary, after so many years have passed, to recall that this type of collective punishment is **entirely contrary** to humanitarian international law, that forbids collective punishment (see Article 33 of the Fourth Geneva Convention), and harm to private property (see Regulation 46 of the Hague Regulations and Article 35 of the Fourth Geneva Convention).

#### **G. The manner of the harm – engineering opinion:**

Your notice lacks a specific indication regarding the manner in which you intend to carry out the demolition, in consideration of the fact that there are 3 houses a short distance from the from where the deceased had lived.

Based on prior experience – punitive demolition of a residential building turns into a show accompanied by the thunder and lightning of the detonation of explosives, which is intended to provide to the press, television and, of course, all of the local residents with impressive special effects.

Should you insist on the collective harm to the deceased's family, it is possible to instruct them to immediately leave the rented property, to remove them from the house and not to harm the landlord who is not involved in any manner whatsoever.

In any event, no mention was made of an appropriate engineering plan suitable to your intention which I can examine and to which I can, possibly, propose an alternative plan in the event that the objection and petition are denied

#### **H. Discrimination in the implementation of punishment and deterrence:**

Without relinquishing any of the above stated claims, and without relinquishing the acute criticism against the injustice and immorality of implementing the proposed procedures, we cannot disregard the fact that the equally shocking murder of the kidnapped Palestinian youth, Mohamed Abu Khdeir, was carried out by at least three Israelis who were captured alive, interrogated, had admitted to the act and recreated it, and are on trial at the Jerusalem District Court on charges of membership in a terrorist organization, committing an act of terror, murder for nationalistic motives and more. Despite all this, no “notification on the intention of confiscating and demolishing the building” was issued against the homes of any of the three!

Moreover, although the security authorities know who carried out the arson attack against the Dawabsheh family in the village of Duma, in which the father, mother and one son were murdered, leaving a small boy burnt all over his body in the hospital, the perpetrators have not been arrested or brought to justice to this day, and no collective punishment has been imposed against them.

It is doubtful whether the persons who committed lynchings against Arabs on city streets, or the person who attacked a Jew in Kiryat Ata believing him to be an Arab, or the person who stabbed 4 Arabs in Dimona will be brought to justice. And it is most unlikely that collective punishments will be imposed against them.

Vengeful demolition and collective punishment are absolutely flawed. And since the state has not taken these horrific steps against citizens of Israel, it is barred all the more from taking these steps against the residents of an occupied territory.

#### **I. Refraining from all sanctions until the exhaustion of remedies:**

I will note that if this objection is, regrettably, denied, the deceased's family and the landlord intend to submit an appeal to the Supreme Court against the implementation of the above sanctions by you.

Therefore, no action must be taken against the house until the exhaustion of all legal remedies. You must ensure that even beforehand, you will make it possible to receive the technical specifications concerning the handling of the house (or the deceased's residential unit) – should you decide to approve the demolition – and to allow an expert response to your plan.

In summary – you are requested to retract your intention to destroy the house in any way whatsoever and to, sadly, bear with the lesser harm, and allow the system of justice to examine your decisions and to rule on them.

Respectfully

[Handwritten signature]

Lea Tsemel, Adv.

A Power of Attorney is enclosed

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