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Israel Defense Forces Judea and Samaria Area Legal Advisor's Office P.O.Box 5, Beit El 90631 Tel: 02-9977071/711 Fax: 02-9977326 House Demolition (Perpetrators and 00152-17-365 **Operations** Shvat 23 5776 February 2 2016

To Advocate Lea Tsemel By fax: 02-6289327

Dear Colleague,

Re: Demolition of the home of the perpetrator ____ Skafi ID

Your letter: Houses 20/12 dated January 1, 2016 Your Letter: 20/12 dated February 2, 2016

1. In the above referenced objection the Commander of IDF Forces in the Judea and Samaria Area was requested to refrain from the forfeiture and demolition of the housing unit which served as the residence of the perpetrator ______ Skafi, ID _____ (hereinafter: the **perpetrator**), who committed on November 4, 2015, a ramming attack in which he has critically injured the Border Police officer, the late Binyamin Ya'akobovitch, who passed away a few days later.

The argument regarding collective punishment

- 2. The objection argued that the inhabitants of the housing unit were not involved in the perpetrator's actions, no guilt on their part has been proved, and they were expected to be the main victims as a result of the exercise of the power of the military commander.
- 3. In view of the fact that this issue has been discussed and dismissed by the Supreme Court in recent judgments, there is no need to elaborate on this matter. In a nutshell it should be noted that the Supreme Court was convinced that the demolition of perpetrators' homes had an advantageous deterring effect and that said power could be also be exercised against family members for as long as the power was exercised reasonably and proportionately. Therefore, these arguments are rejected by the military commander who

is of the opinion that currently, in view of the deteriorating security situation, the above regulation should be used in the case at hand.¹

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The arguments regarding the demolition method of the housing unit

- 4. It was further argued in the objection that the military commander should have specified the demolition method in the notice which had been transferred to your clients, and that he should have also transferred a proper engineering opinion for your clients' review.
- 5. In that regard it should be noted that it has been recently held by the court (HCJ 7040/15 Fadel Mustafa Hamed et al., v. Commander of IDF Forces in the Judea and Samaria Area) as follows: "In my opinion there is also no reason to intervene in respondents' refusal to provide the engineering opinions for petitioners' review. In the cases at hand in which it was argued that damage may be caused to buildings adjacent to the building designated for demolition, the respondents described in the framework of their decisions in the objections and in their responses to the petitions the manner by which each demolition would be carried out and clarified that the execution of the demolitions themselves would be monitored by an engineer. The above indicates that the petitioners were presented with a comprehensive picture of the contemplated demolitions, and their arguments that the demolition plans remained vague and unclear should not be accepted".
- 6. Moreover. The demolition plan for the housing unit was prepared by a qualified engineer from the engineering corps following an engineering mapping which was carried out on scene, taking into consideration the engineering characteristics of the housing unit itself and those of the neighboring apartments.
- 7. Notwithstanding the above please note that in view of the fact that this case concerns demolition of a housing unit which is located on the third floor, the demolition method which was chosen involves the use of polyurethane foam. Accordingly, the internal partitions of the apartment will be demolished manually and the entire space of the apartment will be filled with polyurethane foam which will render the apartment unusable.
- 8. Hence, no damage or harm is expected to be caused to the neighboring apartments.

The demand to receive the investigation materials

- 9. As to your demand to receive the investigation materials which lead to the conclusion that this case concerned an attack rather than an accident, please note that due to the classification of the materials in the possession of the security forces they cannot be transferred to you.
- 10. However, an open video clip which was taped by one of the civil security cameras which was installed on scene at that time and documented the incident (broadcasted by Mako on November 4, 2015 website source www.r4fm.ps) shows the perpetrator's car veer

 $^{^1\,}$ HCJ 7040/15 Fadel Mustafa Hamed et al., v. Commander of IDF Forces in the Judea and Samaria Area

suddenly from the road, accelerate and drive directly towards a group of individuals who were standing on the side of the road, without any braking signs on the ground.

Conclusion

- 11. In view of all of the above said, the military commander cannot accept the objection against the intention to forfeit and demolish the housing unit which served as the residence of the perpetrator _______ Skafi, ID ______, who committed on November 4, 2015, a ramming attack which caused the death of a Border Police officer, the late Binyamin Ya'akobovitch.
- 12. Hence, a proper forfeiture and demolition order is hereby delivered to you, for your clients.
- 13. We wish to emphasize that the realization of this order will not commence before **Sunday, February 7, 2016, at 09:00**.
- 14. Finally, with respect to your second letter mentioned above according to which IDF Forces entered your clients' home in the early hours of the morning, please note that said incident was brought to the attention of the undersigned only in the telephone conversation held with the representative of your office. An examination of the matter indicated that IDF Forces wanted to examine an additional demolition method.
- 15. The problematic nature of the situation was clarified to the competent authorities which were requested to ensure that such an event would not reoccur.

Sincerely,

(Signed)

Sandra Beit-On Ofinkero, Major Head of Division Infrastructure and Seam Zone On behalf of the Legal Advisor

Attached: Forfeiture and Demolition Order

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