**Chapter 3**

**Reshuyos**

**A –** *Reshus* *Harabim* or *Karmelis*

**B –** *Chatzeir*

**C –** *Mavoi*

**D –** *Mavoi Mefulash*

1. The Reshuyos as They Pertain to the Laws of Eruvin
	1. The courtyards and streets in the times of Chazal

To properly understand the various *reshuyos* (domains) discussed in the Gemara, one must be familiar with the layout of the streets in the times of *Chazal*.[[1]](#footnote-1) In those times, several houses would open into a *chatzeir* (courtyard). These *chatzeiros* were usually enclosed and were used for domestic activities such as cooking and eating. The *chatzeiros* would in turn lead into a *mavoi* (alleyway), through which people would pass to get to the street or the main road. The main road had the status of either a *reshus harabim* or a *karmelis*, depending on its size and traffic load.

The typical *mavoi sasum*, a closed alley, was enclosed on three sides and open only on the fourth side where it met the public domain; therefore, the word *mavoi* usually refers to a *mavoi sasum*.[[2]](#footnote-2) The less common type of *mavoi* was called a *mavoi mefulash*, an open-ended *mavoi.* It differed from a *mavoi sasum* in that it was open from both ends allowing traffic to enter one end and exit through the other side[[3]](#footnote-3). This free-flow of traffic created the appearance of a public domain and therefore necessitated certain stringencies.

One of the challenges of implementing the laws of *eruvin* is comparing the *reshuyos* that existed in the time of *Chazal* to modern-day streets and other contemporary domains. This topic is addressed below in Section III.

* 1. The various domains as they pertain to eruvin

In the first chapter (Section II), we set forth the ארבע רשויות לשבת – the four domains for Shabbos, [[4]](#footnote-4) which include the *reshus harabim, reshus hayachid, karmelis,* and *makom petur.* Of these four domains, a *reshus hayachid* and *makom petur* have no need for an enclosure and a *reshus harabim* cannot be enclosed with the typical *eruv* structures, as the public traffic will undermine such *mechitzos* (see *asi rabim* Chapter Two Section I, A). Consequently, the laws of *eruvin* apply primary to the *karmelis.*

As explained in the first chapter, any domain that is not enclosed with *mechitzos* is considered a *karmelis.* This would mean that yards, roads, and farmland that are not enclosed with partitions are all categorized as *karmelisin.* However, we will see that the fact that they are all categorized as *karmelisin* does not necessarily mean that the methods of enclosing these domains are the same for all these domains.

The categorization of *karmelis* is dependent on the amount of *mechitzos.* Since all of the types of *karmelis* are lacking sufficient *mechitzos*, it is forbidden to carry in them*.* To properly enclose these domains one must, amongst other things, clearly demarcate the area from the neighboring public domain. Not all *karmelisin* appear to be part of the *reshus harabim* to the extent that other domains do. Therefore, different guidelines apply to the enclosure of each of these domains. For example, an alleyway, which is a thoroughfare, will have different laws than a yard, which has no public traffic. There are other factors as well that influence the required enclosure for each of the specific domains. For this reason there are many subcategories of *karmelisin*. All the subcategories of *karmelisin* must be enclosed, but each domain has different guideline for its enclosure.

Because of the factor discussed above as well as other considerations, *Chazal* identified the following areas as distinct domains and prescribed different methods for enclosing each of these domains:

* + 1. **חצר (*Chatzeir*) – a courtyard:** In the times of *Chazal*, the houses would open into a shared courtyard. This courtyard was typically enclosed on at least three sides, and was therefore suitable for semiprivate functions such as eating. Halachically, a *chatzeir* has certain leniencies because it is not used as a thoroughfare. However, since it was common for the *chatzeir* to be enclosed,[[5]](#footnote-5) *Chazal* required that a *chatzeir* be surrounded with a more complete enclosure than a *mavoi*.
		2. **מבוי(*Mavoi*) – an alleyway:** The traffic from the abovementioned courtyards would pass through an alleyway, which would lead to the main street. These alleyways were usually shared by two or more *chatzeiros*. The term *mavoi* refers to a typical *mavoi* that is enclosed on three sides and open on the fourth. *Chazal* required that a *tikun* be placed on the fourth side to demarcate the private *mavoi* from the adjacent public thoroughfare. A *mavoi* is subject to certain stringencies because it is used as a thoroughfare for the adjoining *chatzeiros*.
		3. **מבוי מפולש (*Mavoi* *mefulash)* – an open-ended *mavoi*:** An alleyway that is open on both ends is called a *mavoi* *mefulash*. This type of *mavoi* is subject to additional stringencies because it is used as a thoroughfare and therefore resembles a *reshus harabim*. In certain cases, a *mavoi* *mefulash* that connects two *reshuyos harabim* may obtain the status of a *reshus harabim.[[6]](#footnote-6)*
		4. **בקעה (*Bikah*) – an open area:** A *bikah* is an open area or field[[7]](#footnote-7) that is not permanently inhabited[[8]](#footnote-8). Since this type of domain lacks public traffic, its *hekef* requirements are similar to those of a *chatzeir*. The only difference between a *bikah* and an inhabited domain is the suitability for *tzuros hapesach*. More specifically, a *bikah* may not be enclosed on all four sides with *tzuros hapesach*, whereas similar inhabited domains may be completely enclosed with *tzuros hapesach.*[[9]](#footnote-9) The Mishnah Berura[[10]](#footnote-10) explains that since it is unusual for an uninhabited area to contain multiple doorways, a *tzuras hapesach* is likewise inappropriate.
		5. **קרפף (*Karpef*) – an enclosed area used for storage**: The word *karpef* literally refers to a large uncovered storage area located outside of the city, which was used to stockpile wood.[[11]](#footnote-11) Because of its remote location, a *karpef* was used for storage, not domestic functions. Since a *karpef* was a common type of storage area that was clearly not intended for domestic functions, the Gemara and *poskim* adopted the word *karpef* to refer to any area that is designated for non-residential use.[[12]](#footnote-12)
		6. **רחבה (*Rechavah*) – a yard behind one’s house used for storage:[[13]](#footnote-13)** In the times of *Chazal*, practically every house opened to a front yard or *chatzeir;* this yard was used for eating, cooking, and other domestic functions. It was also common to have a second yard behind the house. Since the *chatzeir* in front of the house was sufficient to accommodate the domestic needs of the household, the *rechavah* could be designated exclusively for storage. It was therefore treated similarly to a *karpef* if it was larger than a *bais* *sasaim*. The backyards nowadays are usually used for domestic functions and are therefore permitted even if they are larger than a *bais* *sasaim*[[14]](#footnote-14).
1. The Domains and Their Respective Requirements

**Introduction**

Chazal prescribed different procedures and requirements for enclosing different domains. This section will identify the domains, as defined by Chazal, and describe the correct procedures and requirements for each domain. The Talmudic and halachic literature refers to the domains as mavoi, chatzeir, etc. However, the yards, streets, and building complexes which are common today do not always fit clearly into a single classification. In this section we will discuss the Talmudic classifications, and in Section III we will discuss the classification of contemporary domains.

* 1. Enclosing a chatzeir

*Figure A:*

****A *chatzeir* is designated for residential purposes; thus, it is similar to a house, which is the quintessential *reshus hayachid*. Additionally, unlike a *mavoi*, it is not used as a thoroughfare. For this reason the guidelines for enclosing a *chatzeir* are the most basic; the only objective in enclosing a *chatzeir*, is the amount of *mechitzos* (unlike *mavoi* as discussed below)*.* Enclosing a *chatzeir*, requires three *mechitzos* and a *tikun*, on the fourth side[[15]](#footnote-15). In the case of a *chatzeir*, the appropriate tikun is a *pas* *daled* – a four-*tefach* board (Figure A), or two *lechayayin* – boards with no size requirements (Figure B). These *tikunim* are only valid for openings that are smaller than ten *amos* wide; if an opening is larger than ten *amos* then a *tzuras hapesach* must be used.

*Figure B:*

**Pirtzos in a chatzeir**

When partitions are used to create an enclosure, it is important to ascertain that there are no gaps within the partitions that would undermine the enclosure. If there is *omed merubah,* the walled portion exceeds the gaps, then each gap is viewed as a *pesach*, doorway, and it does not invalidate the enclosure. A wide opening, of ten-*amos* or more in width, or an opening in an unusual location, such as an opening in the corner of the enclosure (*pirtza bikeren zavis[[16]](#footnote-16)*) is considered a *pirtza* and invalidates the entire enclosure. We will see that a *mavoi*, due to the concept of *pilush* (see below), has more complex criteria for distinguishing between *pesachim* and *pirtzos*, and in certain cases, it can be rendered breached by openings as small as four *tefachim* (12.28 inches to 15.2 inches). There may be rare cases where a *chatzeir* may be subject to *pilush,*[[17]](#footnote-17) at least according to some opinions. This is discussed in Chapter Seven Section I, C.

* 1. Enclosing a *Mavoi*

****The residential areas were set up that traffic from neighboring *chatzeiros* passed through a *mavoi*. Due to the public traffic in the *mavoi,* there are certain stringencies that are imposed on a *mavoi* since the *mavoi* can be easily confused with a public domain. Yet, in one respect, a *mavoi* is treated more leniently than a *chatzeir*. A *chatzeir* that consists of three *mechitzos* needs a *pas* *daled* or two *lechayayin* on the fourth side, which is a substantial *tikun*. In contrast, a *mavoi* with three *mechitzos* only needs a minor *tikun* on the fourth side, which could be either a *tefach*-wide *korah,* crossbeam (Figure A) or a single *lechi* with no minimum size (Figure B)[[18]](#footnote-18).

*Figure B:*

The *rishonim* question why a *mavoi*, with public traffic, requires a less substantial *mechitza* then a *chatzeir*. The Rashba[[19]](#footnote-19) explains that *Chazal* required one to enclose all areas with an enclosure appropriate for that area. A *chatzeir* is designated for eating and semi-private activities; thus, it needs a more substantial *mechitza*. A *mavoi,* on the other hand, is a public thoroughfare, and a substantial *tikun* would impede its traffic; thus, a minor *tikun* is sufficient.

It is important to note, however, that the Rama[[20]](#footnote-20) cites a *minhag* to use *tzuros hapesach* and not the other valid *tikunim* when correcting a *mavoi*. The *minhag* of the Rama does not apply to a *chatzeir*[[21]](#footnote-21). Nowadays, however, the common practice is to avoid using *lechayayin,* even in a *chatzeir*. Some *poskim* uphold this practice and strongly discourage the use of *lechayayin* in all cases,[[22]](#footnote-22) and others allow the use of *lechayayin* in a *chatzeir* when necessary.[[23]](#footnote-23)

* 1. **Enclosing a mavoi mefulash**

****A *mavoi mefulash* is open on both ends. The two openings create a *pilush,* an open thoroughfare, which invalidates the enclosure. The placement of a *lechi* or *korah* on both ends would not rectify the *pilush* as these are not bona fide *mechitzos*. Rather the *halachah* requires that such a *mavoi* must be “closed” on one side with a *tzuras hapesach*. The *tzuras hapesach*, the halachic equivalent of a *mechitza*, effectively closes off that side of the *mavoi* and renders it a *mavoi sasum*[[24]](#footnote-24). At that point, the *mavoi* may be adjusted with a *lechi* or *korah* at the other opening.

**Pirtzos in a mavoi**

In addition to the actual *tikun* requirement, which differs between a *mavoi* and *chatzeir,* there is a second distinction regarding the status of a *mavoi’s pirtzos*. Unlike other domains that are only considered breached by a ten-*amah* breach or a *pirtza* *bikeren zavis* (a breach in the corner), a *mavoi* is invalidated even by a small four-*tefach* opening in its side (*pirtzas daled bitzido*). This means that an opening in the side of a *mavoi*, as small as four *tefachim*, that allows the *rabim* to enter through the main entrance and exit through the gap will invalidate the enclosure unless proper *tikunim* are implemented. An opening less than four *tefachim* is not large enough to allow normal passage and does not invalidate the enclosure.

The reason for the stringency is the abovementioned concept of *pilush.* The *mavoi mefulash,* as described above, is a typical case of *pilush,* as the two openings on either side of the *mavoi* create an open thoroughfare. So to, in the case of a *pirtzas daled bitzido,* the fact that the *rabim* can enter the main entrance and exit through the *pirtzas daled,* renders it a *pirtza.[[25]](#footnote-25)*

* Application: A large area is enclosed by a fence that contains gaps that are smaller than ten *amos*. If the area is a *chatzeir*, such as a private lot, and the gaps are smaller than the standing areas of the fence, the enclosure is valid. However, if the area has the status of a *mavoi*, which may be the case in a building complex or a bungalow colony, then even a single four-*tefach* gap may invalidate the enclosure.

* 1. Pilush as it pertains to other domains

The enclosure requirements for a *mavoi* and *chatzeir* are representative of the two basic types of enclosures necessary for all similar domains: the enclosure of a thoroughfare (*mavoi*)and the enclosure of a private yard (*chatzeir*). As a general rule, an area that is suitable for an *eruv* and is subject to public traffic must be treated like a *mavoi* (i.e., one must contend with the ramifications of *pilush*)*.* An area that is not subject to public traffic is viewed as a *chatzeir* without the issue of *pilush.* For example, a road that lacks the conditions of a *reshus harabim* has the status of a *karmelis* and may be enclosed with an *eruv*. While it is not an actual *mavoi*, it is characterized by *hiluch* *harabim*, and it is therefore subject to the laws of a *mavoi;*[[26]](#footnote-26) consequently,all of its openings must be corrected accordingly. In Section III below, the classifications of contemporary domains will be discussed.

* 1. Enclosing a *bikah*

An open field (*bikah*) is not subject to the *hiluch harabim* typical of a *mavoi*; consequently*,* it is categorized as a *chatzeir.* In fact, when enclosing a *bikah* with solid partitions, the laws of enclosing a *bikah* are identical to those of a *chatzeir*. However, when using *tzuros hapesach,* a *bikah* is different than a *chatzeir* in that it cannot be enclosed with *tzuros hapesach* on all four sides[[27]](#footnote-27). The Mishnah Berura[[28]](#footnote-28) explains that it is unusual for an uninhabited area to contain multiple doorways; therefore, a *tzuras hapesach* is likewise inappropriate.

* **Application:** In the times of Chazal, it was common for caravans to camp in open fields. Since the encampment was only temporary, the field retained the status of a *bikah* and a *tzuros hapesach* could not be used to enclose all four sides. In our times, when a group of people in an overnight camp would like to enclose an area that is not normally used, the area may have the status of a *bikah*; therefore, an enclosure comprised exclusively of *tzuros hapesach* may not be sufficient. To permit carrying in a *bikah*, one must utilize solid structures for at least two of the partitions and *tzuros hapesach* for the remaining partitions*.* Alternately, one may construct an enclosure comprised entirely of *tzuros hapesach,* if each individual *tzuras hapesach* is less than ten *amos* wide.[[29]](#footnote-29)

In the cases of *bikah* described above, the area is being used for domestic purposes, at least for the moment; therefore, it is subject only to the restrictions of *bikah,* and not those of *karpef,* which is explained below. Since a *karpef* is a place that is never used for domestic purposes, one cannot carry within such an area even with valid *mechitzos.*

* 1. Enclosing a *karpef*

*The laws of enclosing a karpef are derived from the Gemara Shabbos 7a, Eruvin 23a-26a, and Shulchan Aruch 358.*

The term *karpef* refers to an uninhabited area larger than a *bais sasaim* (5000 square *amos*). The Mishnah Berura[[30]](#footnote-30) explains that private domains are typically small and occupied. Consequently, an area that is both large and uninhabited is suggestive of a *reshus harabim*, and thus, it is forbidden to carry in such an area. An example of this is a farm or field that is not opened to a house or cabin.

A *karpef* is unique in that it retains the status of *karmelis* even when it is completely enclosed; nevertheless, in certain cases it can be remedied and converted into *reshus hayachid*. The complete term used to describe the restriction of a *karpef* is קרפף שלא הוקף לדירה, an area that is enclosed but not for residential purposes. As the term implies, the decisive factor is the intent when the enclosure is made as opposed to any later designation. For example, if a person builds[[31]](#footnote-31) a cabin in a large field and then encloses the field, the enclosure surrounding the field has the status of *hukaf* *l’dirah*, enclosed for residential purposes. However, if the field is first enclosed without the intention of building a place to dwell, then adding living quarters does not change its status from a *karpef* to a *reshus hayachid*.

When a karpef is subsequently designated for domestic use, the partitions will retain their previous status as partitions for an uninhabited domain rendering them invalid. The solution is to first invalidate the enclosure (e.g., by creating a ten-*amah* breach), build a dwelling or otherwise designate the area for domestic functions, and then repair the original enclosure.

**Zeraim – vegetation**

The restriction of *karpef* applies to all uninhabited areas, even if there are no actual obstacles that would prevent one from inhabiting the area. There is, however, a related restriction of זרעים מבטלים הדירה[[32]](#footnote-32), vegetation negates the residential use. In the typical case of *karpef*, there is no obstruction to residential use, so the presence of even one house will permit the entire area. However, in a case where there is vegetation, which obstructs domestic use, the presence of a residential building will not remedy the situation. This can present an obstacle in the creation of a citywide *eruv,* as there are often obstacles to domestic usage that can prevent the establishment of an *eruv,* if they are larger than a *bais sasaim.* Examples of such obstacles include vegetable gardens, farmlands, forests, overgrown fields, cemeteries, and swamplands. If these areas are larger than *bais sasaim,* they can undermine the entire enclosure. Many *poskim* maintain that bodies of water and wooded parks that are used for recreation do not negate the residential presence. This issue as well as possible remedies are discussed in Chapter Nine Section II.

1. Contemporary Domains
	1. Reshus harabim: Public thoroughfares

**Shishim ribo**

As mentioned earlier, a conventional *eruv* cannot be constructed to enclose a *reshus harabim* to allow carrying within the city. Therefore, it is essential to determine what constitutes a *reshus harabim.* In Chapter One Section II, A, we discussed that a public domainmust be sixteen amos wide and unroofed to qualify as *reshus harabim*. Additionally, there is disagreement among *Rishonim* whether there is an additional requirement of ששים רבוא, 600,000 individuals, similar to the encampment in the dessert, which was populated by 600,000 individuals (the concept of ששים רבוא will be explained below).

Although common practice is to follow the opinion that *shishim ribo* is a requisite for a *reshus harabim*; nevertheless, scrupulous individuals (*ba’alei nefesh*) have been – and should be – strict in this regard[[33]](#footnote-33). This means that they should not rely on an *eruv* that includes a city street that is wider than sixteen *amos.* The discussion in the following paragraphs applies to individuals who do not follow this stringency.

One should note, however, that an *eruv* constructed using the principle of *omed merubah*, where three sides of the *eruv* are constructed using physical partitions that comprise a majority of their respective sides, is superior[[34]](#footnote-34) than the typical *eruv* of *tzuros hapesach*, and perhaps *ba’alei nefesh* may use it, as well. Also, private roads, such as roads that are designated for the residents of a residential development, are similar to the *muvaos* in the times of *Chazal* and are suitable for an *eruv.*

**How is shishim ribo determined**

How to construe the requirement of 600,000 is also subject to dispute. Does this mean that 600,000 individuals must live in the city? Does it mean that they must use a single road? If yes; must they use this road every day, or is it sufficient if they use it occasionally?

**The domains in the time of *Chazal***

In the time of *Chazal,* the alleyways of many cities would typically converge into a single main street. Since all the residents would have to access the main road, the daily traffic on the main road would generally mirror the population of the city. Many Rishonim[[35]](#footnote-35) clearly state that if a city has a population of 600,000, then the main street is considered a *reshus harabim.* However, there are various opinions regarding how this is to be applied to contemporary cities, where the entire city population does not necessarily converge on a single road. This is demonstrated in the following applications:

* **Application A:** City A has a population of 5 million people. There is one main road that traverses the entire city and is used to transport many of the residents to and from downtown for work. It is estimated that of the 1.5 million residents who work downtown, at least half of them use this main road. This road is considered a *reshus harabim* according to all opinions.
* **Application B:** City B has a population of 1 million people. There are a many roads that service the local neighborhoods, and a few main roads that traverse the entire city. When traveling long distances across the city, these roads are the only practical route as the local roads are too slow for long trips. It is assumed that practically all residents of the city must use all the main roads at least occasionally. Many *poskim* consider these main roads a *reshus harabim* as well.
* **Application C:** City C has a population of 1 million people. The city is serviced by a grid of many side and main streets. Residents living in the south of the city have their own access to and from the city. The same applies to other neighborhoods. It is assumed that many of the residents of the south side of the city will seldom, if ever, travel the roads on the north of the city. The same applies to residents of other neighborhoods. There are those who consider the roads to be a *reshus harabim*, based solely on the population of the city, which is more than 600,000. Others are more lenient since none of these main roads are actually servicing a population of 600,000 or more.

**The opinion of Hagaon R’ Moshe Feinstein *zt”l***

Hagaon R’ Moshe Feinstein *zt”l* has a unique formula for defining a *reshus harabim*. According to this formula, a single street is not a *reshus harabim* unless 600,000 individuals traverse the street every day, which is very rare in our time. However, if it can be assumed that 600,000 individuals can be found on all the streets of the city at one time, then the entire street grid of a city becomes one large *reshus harabim.* This assumption is only justified if there are close to three million residents living in an area city that is twelve by twelve *mil* (a *mil* is two thousand 2000 *amos*, twelve *mil* equals approximately 8.5 miles). This concept of the entire city becoming a *reshus harabim* is derived from the *machaneh Yisroel*, the Jewish encampment in the desert.

This position represents both a great leniency and a great stringency. On the one hand, a street is not a *reshus harabim* unless 600,000 people travel the street every day. On the other hand, a city with the necessary population density where a *reshus harabim* would be assumed, every side street is also considered part of this *reshus harabim*.

* **Application:** A large city with a population of two million people has a busy main street that is used, at least occasionally, by half of the city’s population. This street meets the criterion of being wider than sixteen *amos*. In terms of the traffic criterion, this main street would be considered a *reshus harabim* according to the many *poskim,* since the city’s population is more than 600,000 and the street itself services 600,000 people. However, according to the opinion of Hagaon R’ Moshe, the street is not a *reshus harabim,* since it is not traversed by 600,000 individuals on a daily basis. The entire city would not be considered a *reshus harabim* since it does not have a density similar to the density in the Jewish encampment in the desert, since the entire population is only two million people. Many *poskim* would not construct an *eruv* that includes a street that services 600,000 individuals unless there are additional halachic considerations that would provide a basis for leniency.

An *eruv* that excludes the main streets is a much better option, since the side streets do not service 600,000 individuals. However, some *poskim[[36]](#footnote-36)* would object to that as well, since the city total population is more than 600,000.

If the aforementioned city has a population of three million people living in an area approximately 8.5 by 8.5 miles, then Hagaon R’ Moshe Feinstein would consider the entire city a *machaneh Yisroel* and it would be prohibited to construct an *eruv* even on the side streets.

* 1. Main roads and side streets

As mentioned previously, in the times of *Chazal,* cities were typically comprised of alleyways and a single main road. At present, cities consist of a complex grid of side streets and main streets; it is important to determine which current day streets are comparable to the *reshus harabim* of ancient times. According to the *Rishonim* mentioned earlier that do not require *shishim ribo*, the *poskim* agree that it is prohibited to enclose even the side streets of such a city if they have a width of sixteen *amos*. Contemporary side streets are not similar to the *muvaos* of the time of *Chazal.* The *muvaos* were private property, which belonged to the residents of the *mavoi*, by contrast, our streets are public property and serve as an auxiliary to the main streets[[37]](#footnote-37). However, private roads that are designated for the member of a residential development, and are not intended for the general public, have the status of a *mavoi[[38]](#footnote-38).*

According to the *Rishonim* that requires *shishim ribo,* there are various ways to understand this requirement, as explained above. There are those who understand that any city whose population exceeds 600,000 people is considered a *reshus harabim.* According to this understanding, there are strong grounds to argue that only main streets are associated with the full population of the city and are considered to be *reshuyos harabim*, and the side streets are not accorded this same status[[39]](#footnote-39). According to the opinions that the road itself must service 600,000 individuals either occasionally or every day, the side streets obviously do not meet this criterion. According to Hagaon R’ Moshe Feinstein, if the city has the density to be considered a *machaneh Yisroel,* as explained above, every street even the dead-end streets[[40]](#footnote-40) become part of the *machaneh Yisroel* and it is forbidden to enclose them.

**Private roads and roads less than sixteen *amos* wide**

Occasionally, in housing complexes there are private roads that are only open to members of that particular complex and their guests. Such roads are similar to the *muvaos* in the time of *Chazal* and may be enclosed with an *eruv* according to all opinions. [[41]](#footnote-41) Similarly, alleyways within the public street system usually serve only local traffic, and they may be enclosed with an *eruv* according to all opinions.[[42]](#footnote-42) There may be instances where a *mavoi* too can become a *reshus harabim* if the public traffic uses the *mavoi* as a shortcut.[[43]](#footnote-43) Such a *reshus harabim* that results from the overflow of a neighboring domain is not restricted in the same way and an *eruv* can be constructed in such a domain.[[44]](#footnote-44) A city street that is less than sixteen *amos* wide is not a *reshus harabim* according to all opinions.There is a question, however, whether the space where the cars park in the street and the sidewalks count towards the required sixteen *amos[[45]](#footnote-45)*.

* **Application:** One would like to make an *eruv* with *tzuros hapesach* on the side street in front of his house. If the street is less than sixteen *amos* wide, such an *eruv* may be possible; as above, it is questionable if the parking spots as well as the sidewalks are measured as part of the *reshus harabim*. If the street is wider than sixteen *amos*, than a *ba’al nefesh* should avoid using such an *eruv*. However, this is a basis to be lenient even if the city has a population of 600,000. If however, the density of the city is such that 3,000,000 are present in an area twelve by twelve mil, *Hagaon* R’ Moshe considers every street a *reshus* *harabim*, and a *eruv* should not be made. In general an *eruv* should never be attempted on a street or sidewalk without the guidance of an expert in the topic of *eruvin*.
	1. Mavoi versus chatzeir

There are two primary differences between a *mavoi* and a *chatzeir*: 1) the *tikun* requirement for the fourth side and 2) the concept of *pirtzas* *daled* *bitzido*. We previously mentioned the *minhag* cited by the Rama which disallows the use of alternate *tikunim*, other than a *tzuras hapesach*, in a *mavoi*. Subsequent to the establishment of this *minhag*, the primary distinction between a *mavoi* and a *chatzeir* is the concept of *pirtzas* *daled* *bitzido*. Thus, an area that has the status of a *mavoi* must be closed completely, without any gaps, even gaps as small as four *tefachim*.

One can certainly conclude that most private yards are *chatzeiros*, as they are privately owned and do not act as a thoroughfares, as did the *muvaos* in the times of *Chazal*. The status of shared parking lots, large building complexes, camps, bungalows, and even entire cities is not so clear. The Gemara Eruvin (5a) states that a *mavoi* is only suitable for a *lechi* or a *korah* if it contains two courtyards (*chatzeiros)*, which contain two houses. Thus, the following questions arise: The Gemara cites these preconditions regarding the leniencies of a *mavoi* (i.e., utilizing a *lechi* or *korah*); are these preconditions necessary to create a *mavoi* with regard to the stringencies of *mavoi* as well? Are the backyards nowadays considered *chatzeiros* if they do not function as eating, cooking, and living quarters as they did in the times of *Chazal*? Is a shared front yard considered a *chatzeir* if there is no partition setting it apart from the street? Can a road or driveway that is controlled by a single entity, such as a camp or bungalow association, have the status of a *mavoi*? In light of these considerations, there are few areas that are clearly classified as *muvaos*, yet many large shared areas that contain private roads or paths are possible *muvaos*, according to many *poskim*. When enclosing such areas, one must fix all four-*tefach* gaps, unless these gaps are obstructed in other ways that will prevent the *rabim* from using them as outlets[[46]](#footnote-46).

* 1. Karpef

The restricted status of a *karpef* is a consequence of its lack of domestic use. The Gemara[[47]](#footnote-47) differentiates between an area that is planted with trees, and one that is planted with vegetation. Rashi explains that trees offer shade and create an environment in which one can relax, whereas vegetation creates an environment in which activities and even trespassing can be difficult as well as damaging[[48]](#footnote-48). Accordingly, many *poskim* permit carrying in areas such as parks, lakes, rivers[[49]](#footnote-49), and wooded areas that are intended for recreational use[[50]](#footnote-50) (see Chapter Nine Section II).

Often large areas, such as cities, camps, or bungalows, will contain one or more areas that are potential *karpifos*. There are those who are stringent and will surround all such areas with a *tzuras hapesach* and thus isolate them from the rest of the enclosure. According to many *poskim,* only those areas that are not used for recreation must be isolated. There is an opinion that the presence of a *karpef* within a large area does not invalidate the entire enclosure. There are *poskim* who may rely on this opinion when isolating the *karpef* is not possible. (The topic of *karpifos* as it relates to citywide and other public *eruvin* is discussed in detail in Chapter Nine Section II).

1. עירובין ה. ורש"י שם ד"ה בתים וחצרות, ורש"י יב: ד"ה בתים וחצרות, ורש"י שבת קל"א. ד"ה בתים וחצרות. [↑](#footnote-ref-1)
2. עירובין ב. ורש"י ד"ה מבוי שהיא גבוה. [↑](#footnote-ref-2)
3. עירובין ו: [↑](#footnote-ref-3)
4. שבת ו., שו"ע שמ"ה סעיף א' [↑](#footnote-ref-4)
5. ע' בב"י שס"ג סימן כ"ח ז"ל וכן כתב הרשב"א בתשובה שהטעם שאמרו אין מבוי ניתר בלחי או קורה אא"כ בתים וחצירות פתוחים לתוכו מפני שכל שהוא עשוי יותר לדירה ולתשמישי הצנע צריך יותר מחיצות גמורות ולפיכך החצירות שדרכן של בעלי בתים להשתמש בהם יותר בתשמישי הצנע ולאכול בהם צריכות מחיצות יותר גמורות, עכ"ל. [↑](#footnote-ref-5)
6. ע' בשו"ע שמ"ה סעיפים ח' וט'. [↑](#footnote-ref-6)
7. ברייתא שבת ו. ורש"י ד"ה בקעה. [↑](#footnote-ref-7)
8. ע' רא"ש עירובין פרק א' אות י"ג דחשיב שיירא שחנתה בבקעה כמקום שאין בו דיורין אע"ג דעכשיו יש בו דיורין. [↑](#footnote-ref-8)
9. לדעת הרמב"ם ל"מ צוה"פ בד' רוחות והובא דבריו בדעה שניה בשו"ע שס"ב סעיף י', וע' במ"ב שם ס"ק נ"ט, ובשו"ת שואל ומשיב (ח"ב ס' פ"ח), ובישועת יעקב סי' שס"ג ס"ק ה', ובמהרש"ם בס' ר"ו. וכן שמעתי מהגר"ש מילר שליט"א בשם הגר"א קטלר, ומהגר"ש פיינשטיין שליט"א דאין צריך להחמיר. [↑](#footnote-ref-9)
10. שס"ה ס"ק נ"ו. [↑](#footnote-ref-10)
11. ע' רש"י עירובין יח. ד"ה לגינה ולקרפף פ' קרפף - היקף גדול חוץ לעיר להכניס שם עצים לאוצר. ובשו"ע שמ"ו ס"ג בסוגרים כתב שפ' קרפף הוא מקום מוקף מחיצות בלא קרוי כמו חצר. [↑](#footnote-ref-11)
12. ע' בבה"ל שנ"ח ס"א. [↑](#footnote-ref-12)
13. ע' רש"י עירובין ה. ד"ה בתים וחצרות, וז. רש"י סוד"ה ומסיים בה. [↑](#footnote-ref-13)
14. שו"ע ורמ"א שנ"ט א'. [↑](#footnote-ref-14)
15. כך הוא מבואר מתוס' צ"ד ד"ה מאי וברשב"א בעבוה"ק שער א' פי"ג הל' ג' והל' ו', וע' גם בדרכי משה שס"ג ס"קי', וע' במ"ב שס"א ס"ק ח' שהביא דבריהם, וע' במ"ב שס"ב ס"ק מ"ה ובה"ל שם ד"ה פרוץ מרובה, וע' בחזו"א עירובין א' ל"ג. אבל ע' ברמ"א שס"א סעיף א' ומ"ב שם ס"ק ד' שאפשר לתקן חצר בב' כתלים וב' פסים, וע' גם בבה"ל שםסעיף ג' ד"ה ואם עשוי. וע' גם בספר תוספת שבת שס"ג ס"ק ס"ג, ושו"ע הרב סימן שס"ד סעיף ב', וכן הוא פשטות המג"א שס"ג סעיף כ"ו ס"ק כ"ז ומחצה"ש שם. [↑](#footnote-ref-15)
16. ע' עירובין ו. וצ"ד: ורש"י שם, וע' בשו"ע סי' שס"א סעיף ב' [↑](#footnote-ref-16)
17. ע' בשו"ע שס"ה סעיף ב' ומג"א ס"ק ד' וט"ז ס"ק ב' ומ"ב שם ס"ק י' וס"ק י"ז, וחזו"א עירובין סי' ל"א. אבל ע' באבן העוזר שס"ה סעיף ב' ד"ה כתבו הט"ז והמג"א, דס"ל דגם בחצר יש לחוש לפלוש. [↑](#footnote-ref-17)
18. כל זה מבואר בשו"ע סי' שס"ה סעיפים א' וב' ובמ"ב שם ובשו"ע סי' שס"ג ג' וי"ד. [↑](#footnote-ref-18)
19. ע' בבית יוסף אורח חיים סימן שסג אות כו (ב) ד"ה ואינו ניתר וז"ל: וכן כתב הרשב"א בתשובה (ח"ה סי' רג) שהטעם שאמרו אין מבוי ניתר בלחי או קורה אא"כ בתים וחצירות פתוחים לתוכו מפני שכל שהוא עשוי יותר לדירה ולתשמישי הצנע צריך יותר מחיצות גמורות ולפיכך החצירות שדרכן של בעלי בתים להשתמש בהם יותר בתשמישי הצנע ולאכול בהם צריכות מחיצות יותר גמורות וכן הו"ד במ"ב שם ס"ק י"ג. [↑](#footnote-ref-19)
20. ע' ברמ"א שס"ג סעיף כ"ו, ובמג"א שם ס"ק כ"ז ומחצה"ש שם ותוספת שבת שם ס"ק ס"ג, ושו"ע הרב שס"ד סעיף ג', ובית מאיר שם, ומ"ב ס"ק קי"א. [↑](#footnote-ref-20)
21. שהרי גם במבוי לא אסרו רק במקרים מסוימים, ע' במג"א שם ס"ק כ"ז ומחצה"ש וכן מבואר בשעה"צ ס"ק ע"ו דאין מנהג זה אלא במבוי מפולש, וחידושו של הרמ"א דלא תימא שיש לו דין חצר וא"כ אין לחוש לפילוש, קמ"ל שצ' צוה"פ. ואף להט"ז ס"ק י"ח שהחמיר להצריך צוה"פ אפילו בצדו השני של מבוי סתום, יש לומר דשאני מבוי דשייך בו ענין של פילוש משא"כ בחצר, ע' בספר תוספת שבת שם ס"ק ס"ג, וע' גם בשו"ע הרב שס"ג סעיף ל"ב ושס"ד סעיף ב' וג' וט'. וע' גם במ"ב שם ס"ק קי"א דמוכח דלא שייך מנהג זה אלא במבוי, ואף לדעת הבית מאיר שהביא תו"ד שכתב דהמנהג הוא גזירה אטו יותר מי' וגזירה זו שייכא גם בחצר, מ"מ אין זה אלא בצירוף החשש של פילוש, וכן משמע בהבית מאיר עצמו. וע' במהרש"ם ח"ו סי' י"ד שכתב דלא שייך מנהג זה אלא במבואות. ואפילו לדעת האבן העוזר שהחמיר בפילוש בחצר, ולדידיה אין סברא לחלק בין מבוי לחצר, דכיון דטעם המנהג הוא כדי שלא יבא להקל בפילוש ולדידיה גם חצר שייך בו פילוש, מ"מ י"ל דלא נהגו כן אלא ברחובות כדמשמע מדברי הרמ"א "דנהגו לתקן כל המבואות" משמע דאין צריך להחמיר אלא ברחובות. וגם במבוי עצמו ל"צ צוה"פ בכל מקום ע' במ"ב שס"ג ס"ק קי"א וספר תוספת שבת שם ס"ק ס"ג ואבן העוזר שס"ה סעיף ב' דמבואר בדבריו דאף לאחר המנהג שצריך לתקן ראש המבוי בצוה"פ, מ"מ פרצת ד' בצדו אפשר לתקנו בלחי, וע' במ"ב בבה"ל שס"ה ד"ה צריך לתקנו שהביא דברי האבן העוזר. וע' במנחת שלמה תנינא סי' ל"ט דפס' למעשה דפרצת ד' אפשר לתקנו בלחי, אף לאחר מנהג הרמ"א. [↑](#footnote-ref-21)
22. כך שמענו מהגר"ד פיינשטיין שליט"א, וכן כתוב בספר על הלכות עירובין מהגר"ש איידר זצ"ל. והמעיין בהספרים יראה שיש שהבינו שמלבד עיקר המנהג שהוא כעין גזירה אטו מבוי מפולש יש דין אחר שצריך לחזור אחר התיקון המובחר, ולדידהו צריך לחזור אחר צוה"פ אפילו בפרצת ד' שבצד המבוי, ואפשר שה"ה בחצר אבל אינו מוכח. וההולכים בדעה זו הרי הם הבית שלמה או"ח סי' נ"ג, שואל ומשיב מהדורה א' חלק ב' סי' פ"ו, ומחזה אברהם סו"ס צ"ב, וע' גם בקרית אריאל פרק י' ס"ק נ"ט בשם הגרי"ש אלישב זצ"ל, דצריך לתקן כל הפתחים (בהיקף של עיר) בצוה"פ (ואפילו אם יש עומ"ר) והוה בכלל מנהג הרמ"א, וכן שמענו מהגר"ד אייזנשטיין שכך נוהגים בא"י. אבל אף לדעה זו יש לחלק בין ראש המבוי ופירצות שבצד המבוי, דבראש המבוי נחשב המנהג כעין גזירה, ואם לא תקנו אסור לטלטל כמבואר במ"ב בסי' שס"ג ס"ק קי"א, אבל בפתחים אחרים הוא רק זהירות שלא להשתמש בתיקונים רק בצוה"פ שהוא התיקון המועיל בכל מקום. [↑](#footnote-ref-22)
23. וכן שמענו מרב דוד אייזנשטיין (בהמח"ס אשד הנחלים) דמנהג מתקני העירוב בירושלים הוא לתקן החצרות בלחיין ואחר שהחצרות מתוקנים סומכים על החצרות לסתום היקף העיר. (אבל יש לדחות דבהיקף העיר יש צדדים אחרים להקל דלא צריך להחמיר בפילוש בצדו את"ל דדינם כחצר ועכמ"ל בזה.) וכן שמענו מהגר"ש מילר שאם ק' לתקן צוה"פ אפשר לסמוך על לחיין אם סמכו עליהם מבעוד יום. וכן שמענו מהגר"מ ברלין. [↑](#footnote-ref-23)
24. כך פ' הט"ז שס"ד סעיף א' וז"ל: כי היכי דליהוי כסתום במחיצה מההוא צד והוי כמבוי סתום מג' צדדין וסגי בצד השני בלחי או קורה, וכן כתב המשנה ברורה שס"ד ס"ק ב'. [↑](#footnote-ref-24)
25. משנה ברורה סי' שס"ה בשם הלבוש: דשוב אינו נקרא פתח רק דרך הרבים. [↑](#footnote-ref-25)
26. ע' במג"א שס"ה ס"ק ד'. [↑](#footnote-ref-26)
27. ע' רא"ש עירובין פ"א הל' י"ג, בית יוסף או"ח שס"ב סעיף י' ושו"ע מ"ב ובה"ל שם. [↑](#footnote-ref-27)
28. שס"ג ס"ק נ"ו. [↑](#footnote-ref-28)
29. בה"ל שם ד"ה אבל בבקעה. [↑](#footnote-ref-29)
30. סי' שמ"ו ס"ק י"ז. [↑](#footnote-ref-30)
31. וכן אם לא בנה אלא דדעתו היה לבנות ג"כ יש להקל, ע' במ"ב סימן שנ"ח סקי"ט. [↑](#footnote-ref-31)
32. שולחן ערוך אורח חיים הלכות שבת סי' שנ"ח סעיף ט. [↑](#footnote-ref-32)
33. בה"ל סימן שס"ד כתב וז"ל: וא"כ קשה על מנהג העולם שמסתפקין בצוה"פ בר"ה שהוא רחב ט"ז אמה ומפולש משער לשער ולסמוך על שיטה דלדידן לית לן ר"ה ג"כ קשה מאוד, דבאמת רוב ראשונים סוברין דגם בדידן איכא ר"ה, עיין במשכנ"י שהאריך בזה, וא"כ קשה לסמוך ע"ז באיסור סקילה. והנכון דסומכין על שיטת הרמב"ם דפסק כר"א דלא אתו רבים ומבטלי מחיצתא, ולדידיה בודאי מן התורה סגי בצוה"פ, ולא נשאר לנו כ"א איסור דרבנן דיש גם לר"א בלא דלתות וכדמוכח מהרמב"ם, ובזה אפשר דיש לסמוך אדעה דאין ר"ה אלא בששים ריבוא ולא הוי אלא כרמלית ולהכי סגי בצורת הפתח. ומ"מ לאו דרך כבושה היא דרוב הפוסקים העתיקו כר' יוחנן דבלא דלתות נעולות יש חיוב חטאת, וגם קולא זו דאין ר"ה בלא ששים ריבוא הרבה ראשונים פליגי עלה. וע"כ אף דאין למחות ביד העולם שנהגו להקל אבל בעל נפש יחמיר לעצמו כי יש בזה גררא דחיוב חטאת, עכ"ל. ובבה"ל סימן שמ"ה כתב וז"ל: מ"מ אין בנו כח למחות ביד המקילין שהם סומכין על הפוסקים העומדים בשיטת בה"ג ורש"י הנ"ל [דס"ל דדוקא בששים רבוא הו"ל רה"ר] אבל כל ירא שמים בודאי יש להחמיר לעצמו דבזמנינו יש ג"כ ר"ה מן התורה, וממילא אין לסמוך על עירוב של צוה"פ דבעינן דוקא דלתות, עכ"ל.

ודברתי בענין זה אם הגר"ש מילער שליט"א והגיד לי שבאמת מנהג העולם הוא להקל, ובאמת יש גם בני תורה שמקילים בזה. לעומת זה שמענו מתלמידיו שהגר"מ פיינשטיין זצ"ל אף דלא היה דרכו לחלוק על מנהג ישראל, מ"מ החמיר כדעת הרמב"ם, וטען דאף דהיה מנהג לדורות להקל, אבל גם היה מנהג הרבנים להחמיר על עצמן, וא"כ בעל נפש יש לנהוג כן גם בזמה"ז, אבל מ"מ לא החמיר אלא לעצמו אבל הקיל לבני ביתו (בעיר דלית ביה ששים רבוא), וכן הרשה לאחרים לנושאו לביהכ"נ כשלא היה יכול להלך ברגליו. וכן הערוך השולחן ש"ג סעיף כ"ב משמע מדבריו שאינו היתר ברור זה שסומכים לטלטל ע"י עירוב ברחוב שהוא רחב ט"ז אמות. [↑](#footnote-ref-33)
34. ע' חזו"א סי' מ"ג ס"ק ה'. ושמענו מהגר"ע שטיינמטץ בשם הגר"ש מילר שאם יש עומ"ר בג' רוחות כגון שיש שם נהר אם תל המתלקט, ואף אם יש שם פתחים גדולים מי' אמות, אם סותמים אותם בצוה"פ, נחשב שם ד' מחיצות ואפשר להתיר אפילו רה"ר. ואפילו למ"ד דפרצת י' מה"ת הכא שמתקנים אותם בצוה"פ הוה כאילו אינם רחבים י' והו"ל רה"י מה"ת. [↑](#footnote-ref-34)
35. רש"י עירובין נט. והובא דבריו בתוס' ותוס' הרא"ש, וכן הוא בתוס' רי"ד שם וכן הוא ברש"י שם ו. ד"ה רה"ר. [↑](#footnote-ref-35)
36. כך שמעתי מהגר"מ רוזנר בשם הגרי"ש אלישב, שבעיר שיש בו ששים רבוא כל הרחובות שמותרים הם לרבים, אין לתקנם, בצוה"פ. [↑](#footnote-ref-36)
37. כך שמעתי מהגר"ש מילער והגר"מ ברלין ועוד כמה פוסקים והטעם דלא דמי למבואות שבזמן התלמוד דבאמת היה שייך רק לבני המבוי. ויותר מזה שמעתי מכמה תלמידים דלדעת הגר"מ פיינשטיין זצ"ל בעיר שיש לו דין מחנה ישראל (כמו שבארנו בפנים) כל הרחובות ואף רחוב ללא מוצא (dead-end street) דינו כרשות הרבים. וטעמו משום דלא דמי למבואות שבימי חז"ל שלא היה שייך כל כך לרבים, אבל הרחובות שלנו שייכי ממש לרבים והוה כקרן זוית דאי לאו דלא ניחא תשמישתיה נחשב כרשות הרבים עצמו. [↑](#footnote-ref-37)
38. כך נראה שהרי יש רשות להבעלים לשנותו אם יסכמו כולם והו"ל כהמבואות שבימי חז"ל. [↑](#footnote-ref-38)
39. כך שמעתי מהגר"מ ברלין, אולם שמעתי מהגר"מ רוזנר ששמע מהגרי"ש אלישב זצ"ל שאם יעלה מספר התושבים בירושלים ליותר מששים רבוא שיש לאסור הטלטול בכל הרחובות אפילו הקטנים ביותר, אבל רחוב ששייך לשכונה בודדת שהוא מנותק מעיקר העיר אינו בכלל זה. [↑](#footnote-ref-39)
40. כך שמעתי מכמה תלמידים. [↑](#footnote-ref-40)
41. פשוט. [↑](#footnote-ref-41)
42. פשוט. [↑](#footnote-ref-42)
43. ע' בשו"ע שמ"ה סעיפים ח' וט'. [↑](#footnote-ref-43)
44. כך שמענו מהגר"ש מילר דהו"ל כההיא דאמרינן כיצד מערבין מבואות המפולשין לרשות הרבים עושה צורת הפתח מכאן ולחי וקורה מכאן ( עירובין ו: שו"ע שס"ד סעיף א') [↑](#footnote-ref-44)
45. כך שמענו ממו"ר הגר"ד צוקער שליט"א ומהגר"ש מילר שליט"א שמקום שבין הcars אינם בכלל הט"ז אמה. אבל שמעתי מהגר"י בלסקי ומתלמידים אחרים שלדעת הגר"מ פיינשטיין זצ"ל הכל נעשה לצורך ההילוך של הרבים ונחשבים כחלק של הרה"ר. [↑](#footnote-ref-45)
46. אבל שמענו מהגר"ש מילר דלדעת כמה אחרונים יש להקל כל היכא דלא בקעי ביה רבים אפילו ליכא רפש וטיט. [↑](#footnote-ref-46)
47. עירובין כג: [↑](#footnote-ref-47)
48. ע' בשו"ע סי' שנ"ח סעיף ט' ומ"ב שם. [↑](#footnote-ref-48)
49. ע' שו"ע שנ"ח סעיף י"א ומ"ב שם. [↑](#footnote-ref-49)
50. ע' במנח"י ח"ה סימן ק"ח שהביא דעות בזה והכריעה כדעת המקילין וכן הקיל הגר"מ פיינשטיין זצ"ל וכן עמא דבר. ונר' דגם המחמירין לא החמירו אלא בזרעים דס"ל דאין לחלק בין זרעים לזרעים וסתמא קתני דזרעים מבטלי דירה ואילנות לא מבטלי, אבל גם לדבריהם מקום שעשוי לטייל אם אין בו זרעים חשיב כעשוי לדירה. [↑](#footnote-ref-50)