

THE HISTORY OF THE ERUV

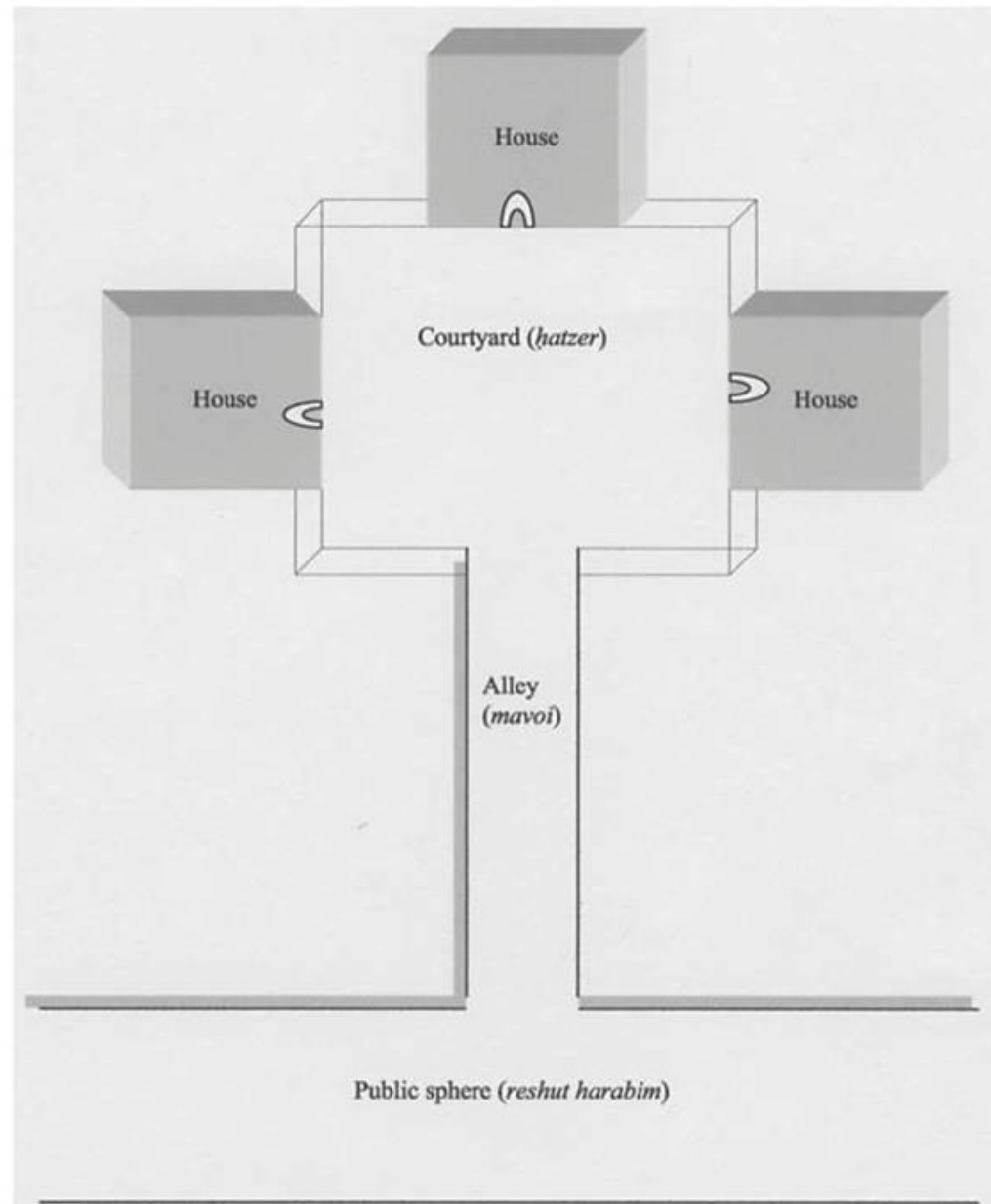


Fig. 1. The courtyard and alleyway as described in the *Mishna* and *Talmud* (by the

Eruvin 62a

Therefore, the Sages said: An *eiruv* is not effective in a place where a gentile is living, nor is the renunciation of rights to a courtyard in favor of the other residents effective in a place where a gentile is living. Therefore, carrying is prohibited in a courtyard in which a gentile resides, unless the gentile rents out his property to one of the Jews for the purpose of an *eiruv* regardless of the number of Jews living there.

However, according to the one who said that we require only a flawed, symbolic rental, i.e., all that is needed is a token gesture that has the appearance of renting, what is there to say? The gentile would understand that it is not a real rental, and therefore he would not be wary of renting out his residence. As it was stated that the *amora'im* disputed this issue as follows: Rav Ḥisda said that we require a full-fledged rental, and Rav Sheshet said: A flawed, symbolic rental is sufficient.

The Eruv in Cologne 12th Century

And even though there is a disagreement among the *Amoraim* [i.e., authors of the Talmud] where one says that “for an alley to be permitted by means of a beam or a doorpost, its houses and courtyards must open onto it,” meaning two courtyards and two houses in each courtyard, while Rabbi Yoḥanan said even one house and one courtyard [is sufficient], these words were applicable in those days when their courtyards were in front of their houses and one could pass through the courtyard to the public space. But in these days when the houses are open (directly) to the mavoï and the courtyard is behind the houses, it is enough that the houses are open to the mavoï without a courtyard. This is my opinion and thus I found support also in Rabbi Yehuda ben Nathan’s interpretation on behalf of Rabbi Shlomo [Rashi].¹⁸

And I have lingered on these matters, because my relative, Rabbi Menachem son of Rabbi Jacob, asked me about this matter. Because in Worms they have *mavuot*, and the public go through them, and they [the *mavuot*] do not belong to the inhabitants of the neighborhood, and they [the Jewish inhabitants] are not permitted to shut the entrances, because this road belongs to everybody in the city; and they [the roads] cross each other, and are open to one of the city’s streets. May we be allowed [to carry an object through it on the Sabbath] if we put a beam on one side and a portal on the other? And from the times of my ancestors they used to carry in it, but our teacher Rabbi Ephraim contests [this permission] and they did not accept his position. This is why I wrote that I think that the permission of the ancestors stands and it is permitted.¹⁶

Shulchan Arukh Orach Hayyim 371:1

You are required to lease from each courtyard of the non-Jew, and it is not sufficient to lease from the head of the city. This is describing a case where the governing official does not own the houses of the city and does not have the right to use the houses even in a time of war. However, in a city where all the activities of the city are conducted under the auspices of the governing official or his assistant, then leasing from the official or his assistant is permitted, for he has permission to place people and weapons in the houses during a time of war even without the knowledge or consent of the residents.

