

[REDACTED]

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**From:** No Train Yard <[notrainyard@savetpark.ca](mailto:notrainyard@savetpark.ca)>

**Sent:** December 24, 2021 8:01 PM

**To:** Ontario Line <[ontarioline@metrolinx.com](mailto:ontarioline@metrolinx.com)>; Chair of Metrolinx <[Chair@metrolinx.com](mailto:Chair@metrolinx.com)>

**Cc:** Tony Marquis [REDACTED] Janet Ecker

[REDACTED] Rick Byers [REDACTED] Luigi Ferrera

[REDACTED] Diana Fletcher [REDACTED]

[REDACTED] Emily Moore

[REDACTED] 'Aamir Sukhera' [REDACTED]

**Subject:** FATWA - A Masjid Cannot Be Sold - Islamic Ruling

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Mr. Chair and Respected Board Members,

SaveTPARK received the attached FATWA from a group of community members who oppose the expropriation or sale of 4 Thorncliffe Park.

SaveTPARK Administration

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ  
*Bismillahir Rahmanir Rahim*

**FATWA/فتوى**

**“SAVE OUR MASJID!  
A MASJID CANNOT  
BE SOLD”**

(See the attached Fatwa and Some historic references)



# DARUL IFTA – DEPARTMENT OF ISLAMIC JURISPRUDENCE

A Division of Jamiah Qasimul Uloom

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Phone: (416) 431-2589

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Email: askmufti@jquloom.ca

Mufti Adam Koya – Head Mufti

**Inquiry#:**

**Category:**

Endowment

**Date Received:**

11/23/2021

**Date Answered:**

12/09/2021

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**Addressed to:**

Abdulhuq Ingar, Abdullah Teli, Ahmed Lulat, Ismail Bhayat

## 1 QUESTION

Respected Mufti Adam Koya Saheb, Mufti Abrar Koya Saheb and Mufti Abdullah Momla Saheb,  
Darul Ifta, Madarsa Qasimul Uloom, Toronto.

Assalamualaikum W.W.

We, the undersigned, concerned community members seeking guidance per Sharia in the following matter;

A community purchased a property, by raising funds thru various methods such as;

- door to door collections locally as well as abroad
- announcements from the Mimber /pulpit,(as recently as today) upon various occasions (Jumuaa and Eidain Salah etc. etc)

solely for the purpose and intention of a Masjid. A big display of the said property as MASJID, can be seen clearly on the wall, at the entrance of the premises .

Furthermore, for over 25 years, the said property has been in USE as a Masjid, including all activities/A'amaal, such as; Five times daily prayers, Jumuaa and taraveeh prayers, I'atikaaf during Ramadhan.etc

Also, the activities that should not be carried out in the designated Masjid area were not permitted, such as;

- Performance of Salaatul Janaza (by the earlier Administration)
- Impure individuals, ( in the state of Janabat) were not allowed in the Masjid;

In view of the above situations;

- (a) should a property acquired as above means and used, falls under the Sharaee definition of WAQF?
- (b) Can the said property be considered as Masjid, regardless of any other Niyyah ?
- (c) Are the Management allowed to sell such property ?

Please oblige us at the earliest possible, the ruling as per Shareeah .

Jazaakumulla Khairan .

May you all be rewarded immensely for your efforts and help toward the community.

Sincerely yours

Abdulhuq Ingar , Abdullah Teli , Ahmed Lulat , Ismail Bhayat

December 2021 [sic]

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## 2 ANSWER

باسمہ تعالیٰ حامداً ومصلیاً  
الجواب وبالله التوفیق  
وعلیکم السلام ورحمة اللہ وبرکاتہ

Brothers in Islam,

After receiving your inquiry and attached documents, we have reviewed all pertinent material. Before answering the query at hand, we must first understand what waqf is.

The word waqf in the Arabic language means to stop or to hold. The English term commonly used for it is endowment. According to the jurists waqf refers to transferring the ownership of one's property to Allah and appointing permanent beneficiaries for it.<sup>1</sup> Once an individual endows their property it will now be regarded as Allah's property, and the beneficiaries which were intended will continue to benefit from it forever. If over time the functionality of the endowment is impeded, then the one who was appointed as the caretaker will use the proceeds from it to reinstate functionality. Regular maintenance is also the caretaker's responsibility.<sup>2</sup> If the appointed beneficiaries no longer exist then it will be used to benefit the poor and needy.<sup>3</sup> Once the endowment is complete it can no longer be sold<sup>4</sup> or transferred to anyone or used for other than its intended purpose.<sup>4</sup>

Masajid are among the most famous types of waqf. The jurists dedicate a sub-chapter within their discussions on waqf to the rules regarding the endowment of a property for a Masjid due to its nuanced nature. Based on the general definition of waqf mentioned above, waqf for a Masjid would refer to an individual (or many) donating a piece of land or a building for the sake of Allah in order to secure an area for the worship of Allah.

### What constitutes waqf of a Masjid?

Waqf of a property for a Masjid will be complete when the owners of the property meet the following criteria:

- 1) Separate their right of ownership from it.
- 2) Give public access to it,

<sup>1</sup> There are two scenarios when a waqf can be altered:

- 1) The endower placed a condition that he possesses the right to alter or change the waqf in the future.
- 2) The waqf becomes totally useless and it is altered with the permission of a shari'e judge (or the equivalent in his absence).

اعلم أن الاستبدال على ثلاثة وجوه: الأول: أن يشترطه الواقف لنفسه أو لغيره أو لنفسه و غيره، فالاستبدال فيه جائر على الصحيح وقيل اتفاقاً. والثاني: أن لا يشترطه سواء شرط عدمه أو سكت لكن صار بحيث لا ينتفع به بالكلية بأن لا يحصل منه شيء أصلاً، أو لا يفي بمؤنته فهو أيضاً جائر على الأصح إذا كان بإذن القاضي ورأيه المصلحة فيه. والثالث: أن لا يشترطه أيضاً ولكن تنع في الجملة وبذلك خير منه ربعا ونفعا، وهذا لا يجوز استبداله على الأصح المختار كنا حرره العلامة قنالي زاده في رسالته الموضوعة في الاستبدال (رد المحتار على الدر المختار - مطلب في استبدال الوقف وشروطه ١٣/٥١٠ مكتبة الاتحاد)

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3) Give permission for Salah to be performed there indefinitely.

Once congregational prayers take place there it will then be regarded as a Masjid until the day of judgement, and the waqf will be considered complete.<sup>5</sup> The property now belongs to Allah, and no one has the right to sell or move this property.<sup>6</sup>

## Is a verbal intention or a ceremony needed for it to become a Masjid?

Contrary to popular belief, the scholars do not require a verbal intention or statement for it to become a Masjid, although that will also suffice. Rather, either a statement or performing Salah in congregation will suffice in making it a Masjid.<sup>7</sup> Therefore, if a property is endowed for the purpose of building a Masjid, by giving the general public access to perform congregational prayers indefinitely, will make it a Masjid.<sup>8</sup> The absence of an actual verbal or ceremonial intention will not be sufficient to prove it is not a Masjid. Rather when a property is endowed for the purpose of performing congregational prayers indefinitely, it will be regarded a Masjid.<sup>9</sup>

The jurists also maintain that an actual building does not have to be present for it to be a Masjid, provided the above three conditions were found.<sup>10</sup> Furthermore, if a Masjid is treated like one in society, i.e., i'tikaaf is performed, women on their menses are not permitted to enter, etc., it will also be regarded as a Masjid, as mentioned in countless texts, by past and present day Muftis, such as Allamah Ibn Amir Haaj, Mufti Kifayatullah Dehlawi, and Mufti Salman Mansurpuri.<sup>11</sup> A sign has no legal impact on it being a Masjid or a Musalla. Therefore, if a Masjid has a sign labeling it as a Musalla, or vice-versa, this will not impact its legal status in the eyes of shari'ah. If the criteria for considering it a Masjid is found, then it will be regarded as a Masjid.<sup>12</sup> A rental property would not be regarded as a Masjid due to it not being a place where the congregational prayers can be carried out indefinitely, and due to it remaining in the ownership of someone.<sup>13</sup>

As for the washroom and wudhu areas, they would be regarded as part of the waqf for the Masjid. However, it will not be treated as the actual shari'e Masjid.<sup>14</sup> It should also be known that<sup>15</sup> no portion of the Masjid can be converted into a washroom, office, or even an area for recreational use.<sup>15</sup>

<sup>11</sup> Although there are texts that suggests turning a Masjid into a pathway is permissible if need be. Maulana Thanwi alongside others clarify the issue and refute the arguments mentioned in favour of doing so.

العبارة الثالثة: كإيجاز جعل الإمام الطريق مسجداً لا يحل له أن يحوّل الطريق إلى غيره من الأغراض. وفيه نوع مدافعة لما تقدم (إلى قوله) ولا ينبغي أن يتبادر أنها قولان في جعل المسجد طريقاً بقية التعليل المذكور ويؤيده ما في التاتارخانية عن فتاوى أبي الليث: وإن أراد أهل المحلة أن يجعلوا شيئاً من المسجد طريقاً للمسلمين فقد قيل ليس لهم ذلك وأنه صحيح ثم نقل عن العتابة عن خواهر زاده إذا كان الطريق ضيقاً والمسجد واسعاً لا يحتاجون إلى بعضه تجوز الزيادة في الطريق من المسجد الخ ثم فيه قوله لجواز الصلوة في الطريق (إلى قوله) بخلاف جعل المسجد طريقاً لأن المسجد لا يخرج عن المسجدية أبداً فلم يجر؛ لأنه يازم المرور في المسجد ولا ينبغي أن يتبادر مرور أي مارولو غير جنب وهذا يؤيد أن هذا قول آخر وقد علمت ترجيح خلافه وهو جواز جعل الشيء منه مسجداً وتسقط حرمة المرور فيه للضرورة؛ لكن لا تسقط عنه جميع أحكام المسجد فكذلك يجوز المرور فيه جنباً ونحوه كما مر فأفهم (إمداد الفتاوى ٦/١٣٩ زكراً بكتبو)

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## Negative impact

Another reason why we must safeguard of our places of worship is due to the negative impact it will have on our future generations. The sanctity of the places of worship will be lost and an iniquitous example will be set for the future. When Imam Malik ibn Anas was consulted by the Khalifah to rebuild the Ka'bah upon the Abrahamic structure, in order to maintain its awe and sanctity in the hearts of the believers, he refused and said: "I dislike that the kings make a mockery of it and treat it like a toy".<sup>16</sup>

## Conclusion

Keeping the abovementioned detail in mind, the property in the above question was purchased using public funds with the soul purpose of establishing congregational prayers indefinitely<sup>17</sup>, the prayers were established, and all of the donors have separated their ownership from the wealth that was used to purchase the property, therefore, it will be regarded a Masjid, and cannot be sold. I'tikaaf and other such injunctions were practiced which were exclusive to a Masjid further proves that it is in fact a Masjid. The notion that an actual verbal intention or ceremonial intention is needed is not true. Rather, as stated above there are other ways to complete the endowment of a Masjid, which were found in the above scenario. As for soliciting funds under the name of the umbrella organization, it would still be regarded as waqf, and the area that has been treated like a Masjid for the past years will be regarded as a shari'e Masjid.

Was Salam,

and Allah All-Exalted knows best

والله تعالى أعلم بالصواب

written by Abdullah Momla, may he and his parents be forgiven

حرره العبد عبد الله موملا غفر له ولوالديه

Checked and approved by Mufti Adam Koya Mufti Amanullah Husaini, Mufti Abdul Mannan Mulla, Mufti Zakariyya Panchbhaya, and Mufti Abrar Ahmed Koya

حقيقه وصحه المفتي آدم كويا والمفتي امان الله الحسيني والمفتي عبد المنان

ملا والمفتي زكريا بانجبهيا والمفتي ابرار احمد كويا

Thursday, December 9, 2021

يوم الخميس، ٠٤ جمادى الأولى، ١٤٤٣

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- <sup>1</sup> وعندهما حبس العين على حكم ملك الله تعالى قال الشلبي الفتوى على قولها (تبيين الحقائق ٤/٢٦٠ مكتبة أشرفية)
- <sup>2</sup> قال (وما انهدم من بناء الوقف وآلته) صرفه الحاكم في عمارة الوقف إن احتاج إليه، وإن استغنى عنه أمسكه حتى يحتاج إلى عمارته فيصرفه فيها؛ لأنه لا بد من العمارة ليبقى على التأيد فيحصل المقصود الواقف. فإن مست الحاجة إليه في الحال صرفها فيها، وإلا أمسكها حتى لا يتعذر عليه ذلك أو أن الحاجة فيبطل المقصود، وإن تعذر إعادة عينه إلى موضعه بيع وصرف ثمنه إلى المزمة صرفاً للبدل إلى مصرف المبدل (الهداية مع فتح القدير ٦/٢٠٨ مكتبة رشيدية)
- <sup>3</sup> (ويجعل آخره جهة لا تنقطع) أي لا يجوز الوقف حتى يجعل آخره جهة لا تنقطع وهذا عند أبي حنيفة ومحمد، وقال أبو يوسف: إذا سمي فيه جهة تنقطع جاز وصار بعدها للفقراء وإن لم يسمهم (تبيين الحقائق ٤/٢٦٣ مكتبة أشرفية)
- <sup>4</sup> (وإذا صح الوقف لم يجز بيعه ولا تملكه قال ابن الهمام تحت من قوله - عليه الصلاة والسلام - «تصدق بأصلها لا يباع ولا يورث ولا يوهب» ومن المعنى وهو أن الحاجة ماسة إلى آخره، ولأنه باللزوم خرج عن ملك الواقف وبلا ملك لا يتمكن من البيع (فتح القدير ٦/٢٠٥ مكتبة رشيدية)
- <sup>5</sup> والثاني: ما اتخذوه مسجداً شرعياً، وجعلوا أرضه وقفاً كمسجد، فالحكم في مثل ذلك عند جمهور الفقهاء أن هذا المكان يبقى مسجداً إلى قيام الساعة، ولا يجوز بيعه في حال من الأحوال، ولا يرجع إلى ملك واقفه أبداً، وهذا مذهب مالك والشافعي وأبي حنيفة وأبي يوسف رحمهم الله تعالى (بحوث في قضايا فقهية معاصرة - أجوبة عن استفتاء المركز الإسلامي بواشنطن ١/٣٣٣ مكتبة دار العلوم كراچی)
- جس جگہ ایک دفعہ مسجد بن جائے وہ قیامت تک مسجد ہی رہے گی، اسے کسی اور کام میں استعمال کرنا شرعاً جائز نہیں اگرچہ اس میں قواعد زائد ہوں، لہذا مسجد کا کوئی حصہ سڑک میں شامل کرنا جائز نہیں۔ (فتاویٰ حقانیہ ٥/٩٣ جامعہ دارالعلوم حقانیہ اکوڑہ خٹک)
- <sup>6</sup> (ومن بنى مسجداً لله تعالى لم يزل ملكه عنه حتى يفرزه) أي يفرزه (عن ملكه بطريقه) بأن يجعل له طريقاً عاماً إلى المسلمين (و) حتى (يأذن بالصلاة فيه) بأن يقول للناس: صلوا في جماعة أبداً، حتى لو قال صلوا فيه يوماً أو شهراً أو نحوه فصلوا لا يزول ملكه، كذا في الواقعات (شرح منلا مسكين على الكنز ١/٢٩٦ دار الكتب العلمية)
- (وإذا بنى مسجداً لم يزل ملكه عنه حتى يفرزه عن ملكه بطريقه ويأذن للناس بالصلاة فيه، فإذا صلى فيه واحد زال عند أبي حنيفة عن ملكه) أما الإفرار فلائذ لا يخلص لله تعالى إلا به، وأما الصلاة فيه فلائذ لا بد من التسليم عند أبي حنيفة ومحمد، ويشترط تسليم نوعه، وذلك في المسجد بالصلاة فيه، أو لأنه لما تعذر القبض فقام تحقق المقصود مقامه ثم يكتفى بصلاة الواحد فيه في رواية عن أبي حنيفة، وكذا عن محمد؛ لأن فعل الجنس متعذر فيشترط أذناه. وعن محمد أنه يشترط الصلاة بالجماعة؛ لأن المسجد بني لذلك في الغالب (وقال أبو يوسف: يزول ملكه بقوله جعلته مسجداً) لأن التسليم عنده ليس بشرط؛ لأنه إسقاط لملك العبد فيصير خالصاً لله تعالى (الهداية للمرغيناني ٢/٤٥٣ مكتبة البشرى)

<sup>7</sup> ثم عند أبي يوسف يصير مسجداً إذا أبانه عن ملكه وأذن للناس بالصلاة فيه، وإن لم يصل فيه أحد كما في الوقف على مذهبه أن الوقف يتم بفعل الواقف من غير تسليم إلى المتولي، وعند محمد لا يصير مسجداً ما لم يصل الناس فيه بالجماعة، بني على مذهبه أن الوقف لا يتم إلا بالتسليم إلى المتولي وعن أبي حنيفة فيه روايتان في رواية الحسن عنه يشترط إقامة الصلاة فيه بالجماعة، وفي رواية غيره عنه قال إذا صلى فيه واحد يصير مسجداً، وإن لم يصل بالجماعة. وجه رواية الحسن أن تمام التبرع بحصول المقصود به بدليل الصدقة فالمقصود بها إغناء المحتاج،



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ثم لا يتم ما لم يحصل هذا المقصود بالتسليم إليه فهنا المقصود من المساجد إقامة الصلاة فيها بالجماعة؛ لأن جميع وجه الأرض موضع الصلاة، وإنما تبنى المساجد لإقامة الصلاة فيها بالجماعة فلا تصير مسجداً قبل حصول هذا المقصود، وجه الرواية الأخرى أن المقصود أن المسجد موضع السجود، وقد حصل ذلك بالصلاة فيه منفرداً كان أو بجماعة، وقد بينا أن الواحد من المسلمين ينوب عن جماعتهم فيها هو حقهم فتجعل صلاة الواحد فيه كصلاة الجماعة (المبسوط للسرخسي ١٢/٤١ دار الكتب العلمية)

ومقتضى هذا أمران: أحدهما أنه لا يحتاج في جعله مسجداً إلى قوله وقتته ونحوه وهو كذلك، وبه قال مالك وأحمد... ونحن نقول: إن العرف جار بأن الإذن في الصلاة على وجه العموم والتخلية يفيد الوقف على هذه الجهة فكان كالتعبير به (فتح القدير ٦/٢١٧ مكتبة رشيدية) ٨ لو كان له ساحة لا بناء فيها أمر قومه بالصلاة فيها بجماعة، قالوا: إن أمرهم بالصلاة أبداً أو أمرهم بالصلاة فيها بالجماعة ولم يذكر الأبد إلا أنه أراد بها الأبد ثم مات لا يكون ميراثاً عنه وإن أمرهم بالصلاة فيها شهراً أو سنة ثم مات يكون ميراثاً عنه؛ لأنه لا بد من التأييد والتوفيق ينفي التأييد (فتاوى قاضيان ٣/١٦٥ قديمي كتب خانة)

(سوال ٥٣) ایک شخص کہہ رہا ہے کہ مسجد کے لئے اس پر عمارت کا ہونا شرط ہے۔ بغیر عمارت کے کھلی جگہ صحن وغیرہ مسجد نہیں ہے لہذا اس پر (صحن مسجد پر) احکام مسجد ثابت نہ ہوں گے کہ عمارت کے بغیر کھلی جگہ ہے۔ کیا یہ دلیل صحیح ہے؟

(الجواب) مسجد ایسی جگہ، ایسی زمین اور ایسے مکان کا نام ہے جس کو کسی مسلمان نے اللہ تعالیٰ کی خاص عبادت، فرض نماز ادا کرنے کے لئے وقف کر دیا ہو اس پر عمارت اور تعمیر در و دیوار اور چھت یا چھپر کا ہونا شرط نہیں۔ مذہب حنفی کی معروف و معتبر مستند کتاب طحاوی شرح در مختار میں ہے:-

واعلم أنه لا يشترط في تحقق كونه مسجداً البناء - يعني جان لو کہ مسجد کے تحقق (مسجد قرار دیے جانے) کے لئے بناء (تعمیر) ہونا شرط نہیں (طحاوی ج ٢ ص ٥٣٦ کتاب الوقف، احکام مسجد) (قاضی خان ج ٢ ص ٤١٢)

جگہ زیادہ ہو تو مسجد کے دو حصے ہوتے ہیں۔ ایک عمارت والا، دوسرا خالی عمارت والی جگہ میں موسم باراں و سرما میں نماز پڑھی جاتی ہے، جس کو مسجد شتوی اور جماعت خانہ سے تعمیر کرتے ہیں۔ بلا عمارت کی جگہ میں موسم گرما میں نماز پڑھی جاتی ہے جس کو ”مسجد صیفی“ اور صحن مسجد سے تعبیر کرتے ہیں۔ جس طرح بارش اور سردی کے موسم میں جماعت خانہ میں نماز باجماعت ہوتی ہے اسی طرح گرمی میں صحن مسجد میں نماز باجماعت پڑھی جاتی ہے۔ یہ دونوں حصے مسجد میں شامل ہیں فقہ حنفی کی مشہور و معتبر اور مستند کتاب شامی میں ہے وان كان للمسجد موضعان مسجد شتوي أو

مسجد صيفي اس عبارت میں گرمی و سردی دونوں موسم کی مسجد کا ذکر ہے اور دونوں کو مسجد ہی کہا گیا ہے۔ (فتاویٰ رحیمیہ ٩/٦٩ دارالاشاعت)

٩ وأذن للناس بالصلاة فيه جماعة فإنه يصير مسجداً)) اهـ ويصح أن يراد بالفعل الإفراز، ويكون بياناً للشرط المتفق عليه عند الكل كما قدمناه من أن المسجد لو كان مشاعاً لا يصح إجماعاً وعليه فقوله: ((عند "الثاني")) مرتبط بقول "المتن": ((بقوله: جعلته مسجداً))، وليست الواو فيه بمعنى ((أو)) فافهم. لكن عنده لا بد من إفرازه بطريقه، ففي النهر عن القنية ((جعل وسط داره مسجداً، وأذن للناس بالدخول والصلاة فيه إن شرط معه الطريق صار مسجداً في قولهم جميعاً، وإلا فلا عند "أبي حنيفة"، وقالوا: يصير مسجداً، ويصير

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الطریق من حقہ من غیر شرط، کہا لو آجر أرضہ ولم یشرط الطريق) اھ۔ وفي "القهستانی": ((ولا بد من إفرازہ - أي: تمیزہ - عن ملكہ من جميع الوجوہ، فلو كان العلو مسجداً والسفل حوانیت أو بالعکس لا یزول ملكہ؛ لتعلق حق العبد به کما في "الکافی") (رد المحتار بتحقیق فرفور ۴۲۷/۱۳ مکتبۃ الاتحاد)

(ویزول ملكہ عن المسجد والمصلی) بالفعل یعنی به الإفراز لو عبر به لکان أوضح. قال في الهندیة: من بنی مسجداً لم یزل ملكہ عنه حتی یفرزه عن ملكہ بطریقہ ویأذن بالصلاة فیہ، أما الإفراز فلائنه لا یخلص لله تعالیٰ إلا به و(بقوله جعلته مسجداً) حاشیة الطحطاوی علی الدر المختار ۶۱۵-۶۱۷/۶ دار الکتب العلمیة)

کوئی فرد یا جماعت اپنی مملوکہ زمین کو مسجد کیلئے وقف کر دے اور عام مسلمانوں کو اسمیں نماز کی اجازت دے دے اور مسلمان اسمیں نماز یا جماعت ادا کرے لکھیں تو کھلی زمین بھی مسجد شرعی ہو جاتی ہے (جواہر الفقہ ۳/۱۴۹ مکتبہ دارالعلوم کراچی)

سوال (۱۵۲۵): قدیم ۶۳۹/۲- کیا فرماتے ہیں علمائے دین و مفتیان شرع متین اس مسئلہ میں: کہ تقریباً صوبہ گجرات بالخصوص ضلع سورت میں عام دستور یہ ہے کہ جب مسجد بناتے ہیں تو اس کے مسقف (چھت والے) حصے کو نماز پڑھنے کے لئے مخصوص کر دیتے ہیں اسی وجہ سے اس کو جماعت خانہ کہتے ہیں اسی کے ساتھ کچھ کھلا ہوا حصہ بطور صحن کے بناتے ہیں اس لئے کہ اس میں اس قسم کی باتیں ہوتی رہتی ہیں جو مسجد کے احترام کے خلاف اور ممنوع ہیں، مثلاً پھر وقت اٹھنا بیٹھنا اور وہیں سونا اور دنیاوی باتیں کرنا یہاں تک کہ حالت جنابت میں بھی اس صحن میں رہتے ہیں؛ کیونکہ اس کو خارج از مسجد شمار کیا جاتا ہے۔ نیز اس میں جماعت خانہ کی طرح نماز یا جماعت بھی نہیں ہوتی، پس راندیر کی مسجد چنار واڑہ بھی اسی طرح پہلے کچھ مختصر بنی ہوئی تھی اور اس کے صحن کے ساتھ بالکل غیر مسجد کا سا برتاؤ کیا جاتا تھا، تقریباً ۲۹۰ اھ المقدس میں یہاں کے بزرگوں نے اس مسجد کو از سر نو بنایا اور ایک زمین خرید کر اس میں شامل کر کے وسیع کیا جس طرح اس جماعت خانہ کو بڑھا یا ہے اسی طرح اس کے صحن کو بھی وسعت دی چنانچہ جس جگہ قدیم مسجد کا حوض تھا اس جگہ کو ٹانگہ بنا کر اس کے بعض حصہ کو صحن میں شامل کر لیا اور حصہ جنوبی جانب کا برآمدہ کے طریق پر ضروریات وضو کے لئے مخصوص رکھا جدید تعمیر کرنے والے اصحاب کے زمانہ سے اب تک بھی اس صحن کے ساتھ خارج مسجد کا برتاؤ تھا اور وہ لوگ اہل علم اور سمجھدار تھے جو داخل مسجد اور خارج مسجد کو خوب سمجھتے تھے پھر بھی انھوں نے اس صحن کو مسجد میں شامل نہ سمجھا۔ اس کے علاوہ ایک عام رواج یہ بھی ہے کہ اکثر مسجدوں کے صحن میں قبریں بناتے ہیں چنانچہ اس نواح کی کوئی مسجد ایسی مشکل سے ملے گی جس کے صحن میں کسی پرانی قبر کا نشان نہ پایا جاتا ہو، پس یہ صورت بھی اس کا کھلا ہوا قرینہ ہے کہ صحن مسجد کو مسجد میں داخل نہیں سمجھتے بعض حضرات تھوڑے عرصہ سے یہاں کی مسجدوں کو دہلی وغیرہ کی مسجدوں پر قیاس کرتے ہیں یہ قیاس صحیح نہیں ہے؛ اس لئے کہ وہاں کی مسجدیں اکثر ایسی بنائی جاتی ہیں کہ ہوادار نہیں ہوتی اس وجہ سے وہاں گرمی کے موسم میں صحن میں نماز پڑھنا اور صحن کو مسجد میں داخل سمجھنا ضروری ہوتا ہے اس کے برخلاف یہاں کی مسجدیں نہایت ہوادار اور کشادہ ہوتی ہیں۔ ہوا کی آمد کے لئے خاص طور پر چاروں



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طرف در پچیاں وغیرہ بنائی جاتی ہیں اسی وجہ سے کبھی صحن میں نماز پڑھنے کی ضرورت واقع نہیں ہوتی اور اس صحن کو داخل مسجد کرنے کا اب تک کوئی ثبوت بھی باقاعدہ نہیں پس ایسی صورت میں مسجد چنار واڑہ کا صحن شرعاً مسجد سے خارج سمجھا جائے گا یا نہیں؟ اور جنازہ کی نماز صحن میں پڑھنا جائز ہو گا یا نہیں؟ جواب مفصل مدلل ارشاد فرمائیے۔ جزاکم اللہ بنیوا تو جروا

الجواب: مدار مسجدیت کا "وضع بقعة للصلاة ذات اذان و إقامة" ہے، جس کی ظاہری علامات فعلیہ إفراسھا عن الملك بطریقھا وإذن لعامة الناس بالصلاة فیھا اور قولہ قول واقف جعلتھا مسجدا ہیں اور وضع للصلاة ایک نیت مخفیہ ہے جب تک بانی سے اس نیت کی نفی کی تصریح ثابت ہو علامات مذکورہ قائم مقام نیت مذکورہ کے ہوں گے پس صحن مذکورہ سوال کے باب میں اگر واقف و بانی کی تصریح نفی نیت مسجدیت کی سند صحیح سے ثابت ہو تو ان پر حکم مسجدیت کا نہ کیا جاوے گا ورنہ مسجدیت کا حکم کیا جاوے گا۔ وھذا ظاہر جدّ واللہ اعلم (امداد الفتاویٰ ۶/۱۲۷ زکریا بکڈپو)

اذان و جماعت کی اجازت سے اس جگہ کا مسجد بن جانا

سوال [۱۹۷۱] ایک شخص نے اپنی زمین کے کچھ حصہ پر مسجد کی نیت کی اور عبادت خانہ کی صورت میں احاطہ کر کے نماز پڑھنی شروع کر دی مگر اس کا دروازہ اپنی ہی طرف رکھا، ابھی کوئی راستہ جدا نہیں کیا تو یہ مسجد شرعاً ہوگی یا نہیں؟

الجواب حامداً ومصلیاً:

اگر وہاں لوگوں کو نماز کی اجازت دے دی اور اذان و جماعت ہونے لگی اور آنے جانے کا ایسا راستہ موجود ہے کہ رکاوٹ نہیں تو وہ شرعی مسجد بن گئی۔ فقط واللہ تعالیٰ اعلم۔ (فتاویٰ محمودیہ ۱۴/۳۹۲ جامعہ فاروقیہ کراچی)

<sup>10</sup> (ویزول ملکہ عن المسجد والمصلی) بالفعل یعنی بہ الإفراس لو عبر بہ لکان أوضح. قال فی الھندیة: من بنی مسجدا لم یزل ملکہ عنہ حتی یفرزہ عن ملکہ بطریقہ وبأذن بالصلاة فیہ، أما الإفراس فلائہ لا یخلص للہ تعالیٰ إلا بہ (وبقوله جعلتہ مسجدا) ... واعلم أنہ لا یشرط فی تحقق کونہ مسجدا البناء لما فی الخانیة: لو کان لہ ساحة لا بناء فیہا أمر قومہ بالصلاة فیہا بجماعة، قالوا: إن أمرهم بالصلاة أبداً أو أمرهم بالصلاة فیہا بالجماعة ولم یذكر الأبد إلا أنہ أراد بہا الأبد ثم مات لا یكون میراثا عنہ وإن أمرهم بالصلاة فیہا شہراً أو سنة ثم مات یكون میراثا عنہ؛ لأنہ لا بد من التأيید والتوقیت ینافی التأيید (حاشیة الطحطاوی علی الدر المختار ۶۱۵-۶۱۷/۶ دار الکتب العلمیة)

<sup>11</sup> والحکم الثابت یكون البقعة مسجداً هو خلوصها للہ تعالیٰ وكونها محلاً للعبادة من صلاة أو اعتکاف أو اقتداء بإمام فیہا تباعد ما بینہ وبين المتقدين تباعداً لو کان فی غیر المسجد لم یجز الاقتداء بہ، ونحو ذلك. ومن المعلوم أنہ ما دامت المسجديّة قائمة کان هذا الحکم ثابتاً لہا وأنہ لا یجوز إبطالہ. (تعریف المسترشد فی حکم الغراس فی المسجد لابن أمیر حاج ۱/۲۶ دار البشائر الإسلامیة)



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وأما في جواز دخول الحائض فليس للفناء حكم المسجد فيه، وأما ما في شرح الزاهدي من أن سطح المسجد وظلة بابه في حكمه فليس على إطلاقه بل مقيد في الظلة بأنها حكمه في حق جواز الاقتداء لا في حرمة الدخول للجنب والحائض كما لا يخفى انتهى قول البحر وقال في المنحة (قوله: وأما ما في شرح الزاهدي إلخ) قيل: ينبغي تقييده بما إذا لم تجعل الظلة جزءا من المسجد ابتداء أو لم تلحق به كذلك كما نبه عليه ابن أمير حاج حيث قال: وأما كون ظلة بابه في حكمه في حق هذا الحكم الذي نحن بصدد الكلام فيه فإنما يتم إذا جعلت جزءا من المسجد ابتداء أو ألحقت به كذلك، أما إذا لم يكن شيء من هذين الأمرين مع فرض أن البقعة الخارجة عن جدران المسجد ليست منه ليكون ما في هوائها له حكم المسجد كما هو العرف العملي المستمر في إنشاء المسجد فلا يكون لهذه الظلة هذا الحكم الذي للمسجد وإن كانت في حكمه في حق جواز الاقتداء بمن في المسجد على ما فيه اهـ. (البحر مع المنحة ١/٣٣٩ مكتبة فاروقية)

(ومن بنى مسجدا لم يزل ملكه حتى يفرزه عن ملكه بطريقه ويأذن بالصلاة فيه وإذا صلى فيه واحد زال ملكه) ... لأنه لو كان له ساحة لا بناء فيها فأمر قومه أن يصلوا فيها بجماعة قالوا إن أمرهم بالصلاة فيها أبدا أو أمرهم بالصلاة فيها بالجماعة ولم يذكر أبدا إلا أنه أراد بها الأبد ثم مات لا يكون ميراثا عنه وإن أمرهم بالصلاة شهرا أو سنة ثم مات تكون ميراثا عنه لأنه لا بد من التأيد والتوقيت ينافي التأيد كذا في الحاشية... قوله وقفته ونحوه لأن العرف جار بالاذن في الصلاة على وجه العموم والتخلية بكونه وقفا على هذه الجهة فكان كالتعبير به فكان كمن قدم طعاما إلى ضيفه أو نثر ثارا كان إذنا في أكله والتقاطه بخلاف الوقف على الفقراء لم تجر عادة فيه بالتخلية والاذن بالاستغلال ولو جرت به في عرف اكتفينا بذلك كمسألتنا ويقولنا قال مالك وأحمد خلافا للشافعي وأفاد أيضا أنه لو قال وقفته مسجدا ولم يأذن بالصلاة فيه ولم يصل فيه أحد لا يصير مسجدا بلا حكم وهو بعيد (البحر الرائق ٤١٦-٤١٧/٥ مكتبة فاروقية)

کیا مسجد کا بصورت مسجد ہونا اور اس میں لوگوں کا نماز ادا کرنا وقف کے لئے کافی ہے؟

سوال ۳۸۳۵.... مسجد کا بصورت مسجد ہونا اور وہ بھی ایسے مقام پر جہاں عام لوگ نماز ادا کرتے

ہوں یا کرتے رہے ہوں، اس کے وقف ہونے کے لئے کافی ہے یا نہیں؟ یا کسی اور تحریر کی ضرورت ہے؟ اگر وقف ہونے کے لئے صرف صورت مسجد کافی نہیں ہے تو ایسی مساجد کو جو کہ پرانی ہیں اور ان کے بانی بھی مد تہامت ہوئیں، فوت ہو چکے ہیں اور اب نہ کوئی بانیان کا قائم مقام موجود ہے نہ کوئی اور تحریر وقف موجود ہے، تو اسکو وقف کہا جائے گا یا مملوکہ؟

جواب: ... مسجد کا بصورت مسجد ہونا اور اس میں بلا روک ٹوک نماز ہوتا ہی اس کے وقف ہونے کے لئے کافی ہے۔ کسی اور ثبوت کی ضرورت نہیں۔ اور جو جگہ ایک مرتبہ مسجد ہو جائے، پھر وہ کسی کی ملک میں نہیں آسکتی۔ وہ خداوند تعالیٰ کی ملک ہے۔ (کفایت المفتی ۹/۳۴۴ ذکر یا بکڑ پو) مسجد کس کو کہتے ہیں؟

نی انتظامیہ کا مسجد شرعی کی متعینہ حدود میں روہد کرنا جائز نہیں

سوال (۱۵۰): کیا فرماتے ہیں علماء دین و مفتیان شرع متین مسئلہ ذیل کے بارے میں کہ: پینچاتی مسجد محلہ نیل گراں شہر جے پور کے تفصیلی حالات



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استفتاء لکھ کر مختلف معتبر دارالافتاء سے فتویٰ منگالیا گیا ہے، جس کی ایک فوٹوکاپی اس استفتاء کے ساتھ منسلک کی جا رہی ہے؛ لیکن اس کے باوجود نیت پر بات انکادی گئی کہ گذشتہ انتظامیہ نے جب اصل مسجد تیرہ صفوں تک بنائی تھی، تو کیا داخل مسجد کی نیت کی تھی یا نہیں؟ جب کہ صورت حال یہ ہے کہ گذشتہ انتظامیہ کے اکثر لوگ اس دنیا سے جا چکے ہیں، کچھ حضرات ابھی موجود ہیں، وہ حضرات ابھی تک کچھ واضح نہیں کر پارہے ہیں، جدھر کاد باؤ بڑھے گا، ادھر کی بات کہی جاسکتی ہے، جب کہ تیرہ صفوں تک متعینہ اصل مسجد داخل مسجد ہونے پر عوام و خواص میں اتفاق رہا ہے، آج تک کسی نے اس پر انکار نہیں کیا، نہ پچھلی انتظامیہ نے نہ نئی انتظامیہ نے جو تین سال سے کام کر رہی ہے، اور اعتکاف کرنے والوں کو تیرہ صفوں تک جانے سے کسی نے نہیں روکا اور یہ نہیں کہا کہ آٹھ صفوں تک تو داخل مسجد ہے اور باقی متعلقہ مسجد نہ پچھلی انتظامیہ نے جس نے مسجد بنائی تھی اور نہ نئی انتظامیہ نے جو مسجد تیرہ صفوں سے گھٹا کر آٹھ صفوں تک رکھنا چاہتی ہے، اور باقی پچھلی صفوں میں وضو خانہ وغیرہ بنانا چاہتی ہے، جب پچھلی انتظامیہ نے تیرہ صفوں تک مسجد بنائی تھی، تو سب نے ہی داخل مسجد تیرہ صفوں تک سمجھا تھا، انتظامیہ نے بھی اور عوام و خواص نے بھی، جس کی واضح دلیل یہ ہے کہ معتقدین کو تیرہ صفوں تک نفلی نمازوں اور کھانے پینے کے لئے آنے جانے پر کبھی روک نہیں لگائی گئی، اگرچہ پچھلی انتظامیہ نے تحریری طور پر اپنی نیت کا اظہار نہیں کیا تھا، اور نہ مانگ پر اپنی نیت کا اعلان کیا تھا، اور نہ نیت بتانے کے لئے کسی تقریب و دعوت کا اہتمام کیا تھا؛ لیکن تیرہ صفوں تک اس طرح مسجد بنادی تھی کہ ہر عام و خاص مسجد دیکھ کر یہی سمجھے گا کہ تیرہ صفوں تک داخل مسجد ہے۔

آب سوال یہ ہے کہ گذشتہ انتظامیہ کا تیرہ صفوں تک اصل مسجد بنادینا، اور عوام و خواص کا تیرہ صفوں تک داخل مسجد سمجھ لینا، اور اب تک انتظامیہ وغیرہ میں سے کسی کا اس پر انکار نہ کرنا، کیا اس بات کے لئے کافی نہیں ہے کہ تیرہ صفوں تک اصل مسجد ہے، متعینہ مسجد ہے، داخل مسجد ہے، کیا نیت کا اعلان و اہتمام یا تحریر ضروری ہے؟ دوسری بات یہ کہ مسجد کا واقف کون ہے کسی کو معلوم نہیں؟ اور نہ کسی زمانے میں مسجد شرعی کا متولی رہا ہے، مسجد کی انتظامیہ بحیثیت خادم خدمت کرتی آرہی ہے جو بدلتی رہتی ہے، اب جب کہ نہ واقف معلوم ہے اور نہ متولی، تو اب داخل مسجد و خارج مسجد کی نیت کا حق کس کو حاصل ہے؟ کیا انتظامیہ کے ممبران کو یا عرف عام کو؟ اور جب کہ تیرہ صفوں تک اصل مسجد بنادی گئی اور عوام و خواص، انتظامیہ وغیرہ انتظامیہ نے عملاً تیرہ صفوں تک مسجد سمجھی، جو نیت کی واضح دلیل ہے، اس کے خلاف گذشتہ انتظامیہ کے کچھ ممبران جو زندہ ہیں، اگر وہ اب نیت کا اعلان کریں یا نیت بدل دیں کہ تیرہ صفوں تک مسجد نہیں مانتے؛ بلکہ آٹھ صفوں تک کی ہی ہم نیت کرتے ہیں، جب کہ اب تک سب کے سب عملاً مانتے رہے کہ تیرہ صفوں تک متعینہ مسجد ہے، تو کیا ایسے ممبران کی نیت کا کوئی اعتبار ہوگا؟

حضرت مفتی صاحب سے گزارش کرتے ہیں کہ تفصیلی سوال کی روشنی میں جو صورت حال کھل کر واضح ہوتی ہے، اس سے متعلق شریعت کی پوری رہنمائی مفصل اور واضح الفاظ میں فرمائیں؟



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الجواب وباللہ التوفیق: جن تیرہ صفوں تک مسجد مذکورہ میں عرصہ دراز سے مسجد شرعی والا معاملہ کیا جاتا رہا ہے، یعنی وہاں تک باقاعدہ نماز ہوتی ہے، اور معتکف حضرات بلاروک ٹوک وہاں آتے جاتے ہیں، تو یہ تعامل اس جگہ کے مسجد شرعی میں داخل ہونے کے لئے کافی ہے، نئی انتظامیہ کو یہ اختیار نہیں ہے کہ وہ اپنی مرضی سے اس جگہ یا اس کے کسی حصہ کو مسجد سے خارج قرار دے، احتیاطی اس میں ہے۔ (کتاب النوازل ۱۳/۲۲۲ فیصلہ بکڈ پو) 12 مسجد ہر حال میں مسجد ہے خواہ کتبہ میں کچھ ہی لکھا ہو

فلو جعل وسط دارہ مسجدًا وأذن للناس في الدخول والصلاة فيه إن شرط معه الطريق صار مسجدًا... ولو عزل بابہ إلى الطريق الأعظم يصير مسجدًا، كذا ذكره الإمام قاضي خان، كذا في التتارخانية ثم قال بعد ذلك رجل له ساحة لا بناء فيها أمر قوما أن يصلوا فيها بجماعة فهذا على ثلاثة أوجه: أحدها إما أن أمرهم بالصلاة فيها أبدا نضا، بأن قال: صلوا فيها أبدا. أو أمرهم بالصلاة مطلقا ونوى الأبد. ففي هذين الوجهين صارت الساحة مسجدًا لو مات لا يورث عنه، وإما أن وقت الأمر باليوم أو الشهر أو السنة. ففي هذا الوجه لا تصير الساحة مسجدًا لو مات يورث عنه، كذا في الذخيرة وهكذا في فتاوى قاضي خان (الفتاوى الهندية ۲/۴۲۵ دار الكتب العلمية) عبارت مذکورہ سے معلوم ہوا کہ مسجد کہ مسجد ہونا کسی کتبہ وغیرہ پر موقوف نہیں اگر کتبہ بالکل موجود نہ ہو یا ایسا ہو کہ اس میں مسجد کی تصریح نہ ہو تو اس سے مسجد ہونے میں کوئی خلل نہیں آتا بلکہ اگر کتبہ میں یہ لکھا ہو کہ یہ مسجد نہیں اور تعامل اہل اسلام سے اس کا مسجد ہونا ظاہر ہوتا ہو تو اس کتبہ کا بھی اس وقت تک کچھ اعتبار نہ ہو گا جب تک یہ کی حجت ثابت نہ ہو جائے کہ یہ کتبہ خود بانی مکان یا بانی مسجد کی جانب سے ہے بلکہ مسجد ہونے کا مدار صرف اس پر ہے کہ مالک زمین اپنی زمین میں عام مسلمانوں کو نماز بجماعت پڑھنے کی ہمیشہ اجازت دے دے اور کوئی رکاوٹ نہ ڈالے جب یہ بات متحقق ہو گئی تو یہ جگہ مسجد ہو گئی خواہ تعمیر بھی نہ ہو پس جب کہ مسجد کے مسجد بننے کیلئے تعمیر اور محراب اور صورت مسجد ہونا بھی شرط نہیں، کتبہ وغیرہ تو کیا شرط ہوتا تو ایسی صورت میں کتبہ کے موہم الفاظ کی وجہ سے وقف اور مسجد کو باطل کر دینا سراسر غلطی سے اگرچہ یہ بات صحیح ہے کہ اس کتبہ کے الفاظ سے مکان کا مسجد ہونا سمجھ میں نہیں آتا لیکن مسجد ہونے کا جس چیز پر مدار ہے وہ یہاں بالکل واضح طور پر موجود ہے یعنی تعامل قدیم اہل اسلام، لہذا بلاشبہ یہ جگہ مسجد ہے، واللہ سبحانہ وتعالیٰ اعلم۔ (امداد المفتین ۱/۶۷۳ دارالاشاعت) مسجد اور جماعت خانے کے احکام:

سوال: مسجد اور جماعت خانہ کسے کہتے ہیں اور دونوں کے احکام میں فرق ہے یا نہیں؟

جواب: فتاویٰ شامی میں ہے:

(ویزول ملکہ عن المسجد والمصلی) شمل مصلی الجنائزہ ومصلی العید قال بعضهم یكون مسجدًا حتی اذا مات لا یورث عنه وقال بعضهم هذا فی مصلی الجنائزہ اما مصلی العید لا یكون مسجدًا مطلقًا وانما یعطى له حکم المسجد

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فی صحۃ الاقتداء بالامام وان کان منفصلاً عن الصفوف وفيما سوى ذلك فليس له حکم المسجد ، وقال بعضهم  
يكون مسجداً حال اداء الصلاة لا غير وهو والجنبان، سواء ويجنب هذا المكان مما يجنب عنه المساجد احتياطاً خانية  
واسعاف والظاهر ترجيح الاول لانه في الخانية يقدم الاشهر (قوله بالفعل) اي بالصلاة فيه ففي شرح الملتقى انه  
يصير مسجداً بلا خلاف

قلت وفي الذخيرة وبالصلاة بجماعة يقع التسليم بلا خلاف حتى انه اذا بنى مسجداً واذن للناس بالصلاة فيه جماعة  
فانه يصير مسجداً ... وقدمناه من ان المسجد لو كان مشاعاً لا يصح اجماعاً ... وفي القهستاني ولا بد من افرازه اي  
تمييزه عن ملكه من جميع الوجوه فلو كان العلو مسجداً والسفل حوانيت او بالعكس لا يزول ملكه لتعلق حق العبد به  
كما في الكافي ... واذا كان السرداب او العلو لمصالح المسجد او كانا وفقاً له صار مسجداً شربلاية ... قال في  
البحر: وحاصله ان شرط كونه مسجداً ان يكون سفله وعلوه مسجداً ينقطع حق العبد عنه لقوله تعالى {وان المساجد  
للّٰه} (شامی)

فتاویٰ قاضیخان میں ہے:

دار فیہا مسجد ان كانت الدار اذا غلقت كان للمسجد جماعة ممن كان في الدار فهو في حكم مسجد جماعة يثبت فيه  
احكام المسجد من حرمة البيع وحرمة الدخول للجنب اذا كانوا لا يمنعون الناس من الصلوة فيه وان كانت الدار اذا  
اغلقت لم يكن فيها جماعة اذا فتح بابها كان لها جماعة فليس هذا مسجد جماعة وان كانوا لا يمنعون الناس عن الصلوة  
فيه - (فتاویٰ قاضیخان)

کفایت المفتی میں ہے:

مسجد کے احکام مختلف ہیں اسی طرح حالات بھی مختلف ہیں، مثلاً ایک حکم تو یہ ہے کہ جو مسجد باقاعدہ شرعیہ ایک مرتبہ مسجد ہو جائے وہ قیامت تک کے  
لئے مسجد ہے اس حکم کے ثبوت کے لئے ضروری ہے کہ جس زمین پر ابتداءً مسجد تعمیر ہوئی ہے یا وہ مالک زمین جس نے مسجد کے لئے وقف کی ہو اور  
اپنے مالکانہ حقوق اس سے بالکل ہٹا لئے ہو، پس کوئی ایسی مسجد جو غیر موقوفہ زمین پر تعمیر ہوئی ہو اس کے لئے حکم مذکور ثابت نہیں ہو سکتا مگر ہاں مجبوری



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کی وجہ سے ایسی زمین پر مسجد بنانا اور اس میں نماز پڑھنا اور جمعہ و جماعت قائم کرنا سب جائز اور موجب اجر و ثواب ہے... مگر احکام اس وقت جاری ہوں گے جبکہ وہ زمین مسجد کے لئے وقف ہو مشروط اجازت کی صورت میں مسجد کے جاری نہ ہوں گے۔ (کفایات المفتی ۷/۷۷، کتاب الوقف)

ذکر کردہ عبارات کی روشنی میں یہ بات واضح ہو گئی کہ شرعی مسجد ہونے کے لئے چند باتیں ضروری ہیں اول یہ کہ واقف نے زمین کو مسجد کے لئے وقف کیا ہو دوسری یہ کہ زمین کو اپنی ملک سے یا دوسرے کی ملک سے اس طرح علیحدہ کر دیا ہو کہ اس کا یا کسی اور کا حق اس سے متعلق نہ رہے۔ تیسرے یہ کہ اس میں ایک مرتبہ جماعت کے ساتھ نماز بھی ہو چکی ہو، اگر یہ باتیں نہیں پائی جاتیں بلکہ وہ زمین ہی غیر موقوفہ ہے کسی کی ذاتی ملک میں ہے اور اس نے فقط نماز کی اجازت دی ہے یا حکومت کی ملکیت ہے اور کرایہ پر لے رکھی ہے تو وہ بھی مسجد شرعی نہیں ہے اس پر مسجد شرعی کے تمام احکام جاری نہیں ہوں گے البتہ اس میں نماز باجماعت ادا کرنے کا ثواب ملے گا، اور جمعہ وغیرہ بھی قائم کرنا درست ہے، اسی طرح علامہ شامی کے قول کے مطابق اس کو کراہت کی چیزوں سے بچانا چاہئے جیسے مسجد شرعی کو بچانا ضروری ہے، مثلاً بیع و شراء، جنسی تعلقات، پیشاب پاخانہ اور دنیوی باتوں سے گریز کرنا چاہئے، احتیاط اسی میں ہے لیکن جو مسجد شرعی کے احکام ہیں مثلاً مسجد شرعی قیامت تک مسجد ہوتی ہے اسے بچا نہیں جاسکتا، اس میں یہ احکام جاری نہیں ہوں گے، اس کا جو مالک ہے وہ اسے بیچ سکتا ہے، اور اوپر نیچے کا حصہ بھی مسجد میں داخل نہیں ہو گا چنانچہ دکانیں وغیرہ بھی بنا سکتا ہے، اور رہائش کے لئے گھر بھی بنایا جاسکتا ہے عرف عام میں اس کو مصلیٰ کہتے ہیں البتہ اگر مسجد والی شرائط اور باتیں موجود ہیں تو پھر یہ جماعت خانہ نہیں بلکہ مسجد ہے اگرچہ لوگ مصلیٰ ہی سے موسوم کریں، کیونکہ دونوں کے احکام میں بہت واضح فرق ہے جیسا کہ مذکور ہوا۔ واللہ اعلم (فتاویٰ دارالعلوم زکریا ۱/۷۷۹ زمزم پبلشرز)

<sup>13</sup> وذكر الصدر الشهيد في «واقعاته» في باب العين من كتاب الهبة والصدقة رجل له أرض ساحة لا بناء فيها، أمر قومًا أن يصلوا فيها بجماعة، فهذا على ثلاثة أوجه: أما إن أمرهم بالصلاة فيها أبداً نصاً بأن قال: صلوا فيها أبداً أو أمرهم مطلقاً ونوي الأبد وفي هذين الوجهين صارت الساحة مسجداً لو مات لا يورث عنه، وأما إن وقت الأمر باليوم أو الشهر أو السنة وفي هذا الوجه لا تصير الساحة مسجداً لو مات تورث عنه (المحيط البرهاني ۹/۱۲۵ إدارة القرآن)

بعض اوقات بطور مسجد جو مکان مستعمل ہو اس کا کیا حکم ہے؟

(سوال ۶۳) یہاں ایک پہاڑ پر جو ہو اخوری کا مقام ہے وہاں عیسائی آباد ہیں اور مسلمانوں کے مکانات بنگلے ڈومس کی طرح بنے ہیں اور دوکانیں بھی ہیں۔ جب اسکولوں میں دو ماہ کی تعطیل ہوتی ہے اس وقت دو ماہ کے لئے مسلمانوں کے اہل و عیال ہو اخوری کے لئے جاتے ہیں لیکن مرد نہیں جاتے وہ صرف ہفتہ میں ایک آدھ روز پہنچتے ہیں۔ ایک صاحب نے یہاں پر اپنا مکان نماز پڑھنے کے لئے مسجد کے طور پر استعمال کرنے اور وہ بھی روزانہ نہیں ہفتہ میں ایک دو دفعہ کے لئے دیا ہے تو یہ مکان مسجد کے حکم میں ہے یا نہیں؟

(الجواب) اس صاحب دل سرمایہ دار نے اپنا مکان ہفتہ میں ایک دو وقت نماز پڑھنے اور بطور مسجد استعمال کرنے کے لئے دیا ہے۔ یہ تہلیت ہی مبارک اور



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ثواب کا کام ہے۔ لیکن یہ جگہ اپنی ملکیت میں باقی رکھ کر دی ہو تو یہ شرعی مسجد کے حکم میں نہیں ہے اور اس پر مسجد کے احکام جاری نہ ہوں گے۔ ہاں باجماعت نماز پڑھی جائے تو جماعت کا ثواب ملے گا اگرچہ مسجد میں نماز پڑھنے جیسا ثواب نہیں ملے گا۔ البتہ اگر اس مکان سے اپنے مالکانہ حقوق ساقط کر دیئے اور اس کو عام مسلمانوں کے لئے مسجد بنادیا تو یہ شرعی مسجد ہے اور اس پر مسجد کے احکام جاری ہوں گے۔ جب پہاڑ پر مسلمانوں کی آبادی ہے اور مسلمانوں کے ذاتی مکانات، دوکانیں اور بنگلے وغیرہ سب کچھ ہیں اور ہواخوری کے لئے لوگ آمدورفت کرتے ہیں اور رہتے ہیں تو یہاں پر مسجد کی خاص ضرورت ہے۔ لہذا چاہئے تو یہ کہ یہ صاحب دل فراخ دلی کر کے اس مکان کو ہمیشہ کے لئے وقف کر دیں۔ یہ ان کا صدقہ جاریہ اور بہت بڑا کار خیر ہوگا۔

حدیث شریف میں ہے عبید اللہ الخولانی انہ سمع عثمان بن عفان رضی اللہ عنہ یقول الناس فیہ حین بنی مسجد الرسول ﷺ انکم اکثرتم وانی سمعت رسول اللہ ﷺ یقول من بنی مسجد اقل بکیر حسبت انہ قال یتغنی بہ وجہ اللہ بنی لہ مثله فی الجنة (بخاری شریف ج ۱ ص ۶۳ باب من بنی مسجداً) جو شخص مسجد تعمیر کر اویں جس سے اللہ تعالیٰ کی رضامندی مقصود ہو تو اللہ تعالیٰ اس کے لئے اس جیسا محل جنت میں بنائے گا۔ وہاں کے باشندوں (مسلمانوں) کو لازم ہے کہ مسجد کی صفائی اور آبادی کا پورا خیال رکھیں۔ امام ایسا رکھیں جو پانچوں وقت کی اذان پڑھ کر امامت کر اویں اور بچوں کو تعلیم دے بڑے بوڑھوں اور جوانوں کو وعظ و نصیحت کر کے انہیں پکے نمازی اور سچے مسلمان بنائے۔ فقط۔ (فتاویٰ رحیمیہ ۹/۷۹ دارالاشاعت)

اولایہ بات جان لینا ضروری ہے کہ مذکور شخص نے مکان بنا کر جمعہ وغیرہ نماز پڑھنے کیلئے اپنی ملکیت ختم کر کے یہ مکان مسلمان قوم کو وقف کر دیا تھا یا نہیں؟ اگر اپنا مالکانہ حق ختم کر دیا تھا تو یہ جگہ شرعی مسجد کے حکم میں ہے (فتاویٰ دینیہ ۲/۲۸۴ جامعہ حسینیہ راندیر)

۱۴ دوسرے معنی کے لحاظ سے صحن ایک علیحدہ چیز ہے، یعنی اگرچہ وہ مسجد کے ساتھ وقف ہونے میں شامل ہے، مگر مسجد کے احکام اس کے لئے ثابت نہیں (مجموع الفتاویٰ ۶/۶۰۹ مکتبہ محمودیہ)

۱۵ مسجد کی بیت کو بدلنے کا حکم

سوال (۱۵۶۲): قدیم ۶۹۳/۲۔ ہمارے محلہ کے مسجد پرانی عمارت اور نشیب میں واقع ہے لہذا اس کی کرسی ہم کسی قدر اونچی کر کے اس کی قدیم بنیاد پر نئی مسجد تعمیر کرنا چاہتے ہیں اور چونکہ جماعت خانہ عرض و طول میں زیادہ ہے اور صحن کم ہے۔ اب ارادہ یہ ہے کہ جانب جنوب تھوڑا حصہ جماعت خانے کا خارج کر کے جماعت خانہ سے لے کر صحن میں لے لیا جاوے یا اس خارج حصہ کو دو تین کمان لے کر بشکل سہ دری کر دیا جاوے اطلاع عرض ہے کہ اس میں اس طرح کے تغیر و تبدل سے کچھ شرع مانع تو نہیں ہے؟ اس کے اوامر و نواہی سے جیسا ہو حکم نافذ فرما کر مشکور فرمادیں۔ بیٹو تو جروا

الجواب: سنا گیا ہے کہ اُن اطراف میں صحن مسجد کے ساتھ معاملہ مسجد کا سا نہیں کرتے، اگر یہ صحیح ہے تو جماعت خانہ کا کوئی حصہ صحن میں شامل کرنا



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درست نہیں ورنہ اس کو لوگ مسجد سے خارج سمجھیں گے اسی طرح سہ وری یا ایسی کوئی چیز بنانا جس کے بننے کے بعد دیکھنے والے اس حصہ کو مسجد سے خارج سمجھیں جائز نہیں اور اگر یہ بات نہ ہو تو صرف نیچے سے اونچی کر دینا یا زائد کر دینا مضائقہ نہیں خلاصہ یہ ہے کہ جس قدر زمین اب مسجد سمجھی جاتی ہے اس کا کوئی جزو خارج مسجد کی شکل بنانا درست نہیں (امداد الفتاویٰ ۶/۲۰۹ زکریا بکڈپو)

16 وقد هم ابن المنصور المهدي أن يعيدها على ما بناها ابن الزبير، واستشار الإمام مالك بن أنس في ذلك، فقال: إني أكره أن يتخذها المملوك لعبة، - يعني يتلاعبون في بنائها بحسب آرائهم - فهذا يرى رأي ابن الزبير، وهذا يرى رأي عبد الملك بن مروان، وهذا يرى رأي آخر والله سبحانه وتعالى أعلم (البدایة والنهاية لابن كثير ۸/۳۵۲ دار ابن كثير)

17 مسجد کی حیثیت وقف کی ہوتی ہے

سوال:.... یہاں انگلستان میں لوگوں نے عوام کے چند سے مسجدیں اور ادارے قائم کئے ہوئے ہیں، جواب یہ ان کی ذاتی ملکیت ہیں، ان کے لئے شرعی حکم کیا ہے؟

جواب:۔ مسجد کی حیثیت وقف کی ہوتی ہے، اس کا کوئی مالک نہیں ہو سکتا، اور نہ ہی ذاتی مصرف میں استعمال کر سکتا ہے، اس لئے کاغذات میں کسی کے نام ہونے سے اس کی حیثیت میں کوئی تبدیلی نہیں آتی۔ (آپ کے مسائل اور ان کا حل ۳/۲۸۰ مکتبہ لدھیانوی)

# THE TORONTO STAR

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## Bigotry still blinds our only borough

When East York councillors approved the parking arrangements for a planned mosque in their borough last month, most residents applauded the compromise that would bring the Islamic Society of Toronto a most cherished wish — their own place of worship in their Thorncliffe Park community.

Sadly, stubborn councillors — some motivated by age-old conflicts born on foreign soil — are prepared to sully the reputation of Canada's only borough by insisting on fighting off the mosque. Their plot must not succeed at council tomorrow night.

Normally, tomorrow's vote would have been routine. When it comes to passing bylaws, the mayor usually rattles off an indecipherable legal statement that council intends to codify what has already been passed in earlier votes. With no discussion, hands go up and the bylaws are approved in a matter of seconds.

Tomorrow night, however, it may be different, according to Mayor Mike Prue. Some anti-mosque councillors have notified him they'll attempt one last stand. They may have voted for the parking plan, they said, but still could reject the over-all plan. Such sophistry will spell the death of the bylaw, and the rejection of the mosque.

While insufficient parking and lost taxes are the official causes of the long, drawn-out dispute, a more sinister conflict has been simmering under the surface — and above.

The mosque is to be erected in a neighborhood that already has a Greek Orthodox and a Macedonian church, neither of which pays taxes nor has sufficient parking. Some of their parishioners have brazenly resurrected old country hatreds — Greece vs. Turkey, especially over Cyprus — to thwart fellow Canadians who are Muslims.

As with many other foreign disputes, this is an emotional, highly charged issue for people of Greek ancestry. But that's no excuse for injecting that poisonous brew into a Canadian neighborhood. There's even less excuse for councillors to be guided by it.

Mayor Prue understands what's at stake here: the constitutional right of a group to its religion and place of worship. He has provided exemplary leadership, and has been supported by Councillors Bob Dale, Norm Crone and John Antonopoulos, the latter despite pressure from his church community.

But Prue needs one more vote from the remaining councillors — Tim Chovlat, Lorna Krawchuk, Paul Robinson, Michael Tziretas, and George Vasilopoulos — to push the bylaw through.

Do the right thing, councillors, and stop giving your borough a bad name

## RELIGION

# Is prayer too frightening for East York?

## Opinion

ABDULLAH HAKIM QUICK

Growing up in *de facto* segregated Boston, Mass., was risky business in the turbulent '60s. I can still remember leaving my native city, Cambridge, and being afraid to travel through Italian-dominated east Boston or Irish-dominated south Boston. Being young, black and from Cambridge could get you maimed or killed if you ended up in the wrong section of town.

Fear, ignorance and bigotry made people of different cultures seem like a dangerous alien enemy. I witnessed name-calling, gang attacks and armed assaults. A cold glare would come from the eyes of the people who were about to victimize you. Innocent bystanders became co-conspirators through their silence and lack of concern.

It was as if that same glare and bigoted lack of sensitivity were present at the June 20 East York public hearing on the application of the Islamic Society of Toronto to rezone 4 Thorncliffe

Park from a light-industrial commercial property into a mosque, which will include health, educational and social facilities desperately needed by hundreds of the area residents.

I found myself, as a chief witness, lifting up my voice not only for the Muslim community but also for a sizable section of Canadian society who sees a strong connection between business and human issues. This is a classical case for all Canadians to seriously consider for the future of our nation.

The Muslim residents of East York have been paying taxes and participating in community affairs for more than two decades. There may no longer be board of education space for their special heritage classes. No other reason-

able sites for the mosque are available in the area. Scores of businesses have promised to move into East York when the mosque complex is developed.

East York is in dire need of new business enterprises, and even the present occupants of the property in question, sold to the Islamic society conditional on its being rezoned for religious use, are in the process of moving out.

Five other mosque facilities in Metro Toronto have been established on rezoned properties. Other properties in East York have already been rezoned for other religious communities.

The main concern raised by the majority of the committee of East York Council, whose own ethnic communities enjoy churches and community centres, was "the potential loss of \$91,000 in business and realty taxes. (A mosque is tax-exempt.) This amount is not only vague but inconsequential in comparison with estimates of the busi-

ness that a mosque complex will bring into the area as well as the communal benefit to borough residents.

Enter the cold stare and the irrational face of bigotry.

Hundreds of people, mostly residents, attended the hearing, testifying to the importance of this move. Were there too many prayer caps or hijabs in the house? Or was the first outdoor prayer in the history of East York's civic centre frightening to the five councillors who opposed the rezoning?

Bravo for Mayor Mike Prue, who courageously stood for the vision of a multicultural East York that respects the needs and rights of all cultural groups, not just the "chosen few."

The full East York council voted 5-4 earlier this week to allow the mosque in the borough's business core, after one of the councillors who had opposed the project in committee changed his mind. It was a marginal

victory for the mayor's courage.

But this incident is not the end of business interests conflicting with community interests. This unfolding drama is part of the challenge that we all have to face in the 21st century. Will it be a continuation of the "ghetto mentality" that is liberal when demands come from within and intolerant when demands come from "other people?"

Will Muslims who are paying taxes, living peacefully and supporting their local governments continue to be looked upon as "a threatening alien force?" If we can support changing sections of Metro Toronto into "red-light districts," why do we resist a building that will foster prayer? Is prayer really that frightening?

Abdullah Hakim Quick is an imam and a consultant to the Toronto Board of Education.

## INSIGHT

# Parking, prejudice and the mosque

Did traffic or racism stall East York's Muslims?

By PHINJO GOMBU  
STAFF REPORTER

It was one of the more bizarre questions East York Mayor Michael Prue has had to ask during his time in office.

Could Abdul Ingar Huq, the man who led hundreds of the borough's Sunni Muslims in their recent fight for a mosque, find out if any of his congregation was Turkish?

The answer came back: none; they were almost exclusively from India and Pakistan.

To make sure, however, Prue asked Huq to check once again to see if any of them had ever visited Turkey or even passed through the country.

"None of them had ever in their lives physically set foot in Turkey," Prue recalled.

The question had arisen because a delegation of Greek-Cypriots from a community centre next door to the proposed mosque on Thorncliffe Park Dr. — including its vice-president Dino Sophocleous — had lobbied Prue last summer to vote against the mosque.

While the Greek-Cypriots told Prue their main concern was that the mosque would create parking problems, a more sinister issue was also raised inside the mayor's office.

"They alluded to the historical difficulties of Greeks and Turks in Cyprus and the fact that the Turks had butchered their families, and the fact that Turks (to them) were monsters," the mayor said.

Prue was aware of the traditional hostility between Turks and Greek-Cypriots over the invasion of Cyprus.

The mayor told the delegation there was no place in Canada for such an argument.

was finally approved on March 4 after a bitter and emotional fight, says the anecdote illustrates the complicated nature of the battle.

It also shows what can happen when historical tensions from the old country become entangled with the private agendas of local politicians in Canada.

An otherwise routine rezoning issue took on a life of its own and finally became an emotional battleground that bitterly divided the community.

Ask any East York councillor what was behind "the great mosque fight" and you'll be told it revolved around: the right of a group to worship close to their homes, parking, the loss of taxes from a non-taxable religious institution, and the encroachment of non-businesses into an industrial-commercial area.

But not one of them will say that racism or historical tensions were at the heart of the mosque debate.

For the Muslims, however, the various roadblocks they faced raised more questions than answers during the fight, prompting an emotional and public outburst of cries of racism.

While racism may have been at the heart of the matter in the minds of some Muslims, parking was the issue that almost derailed the mosque plan.

But that didn't become a real issue until after the mosque first won approval in principle more than nine months ago, with a narrow 5-4 council vote.

Originally, the issue was taxes. East York planners argued that the borough would lose \$91,000 in taxes if a non-taxable institution such as the mosque was allowed into the municipality's endangered business-commercial heart.

The Muslims also faced opposition from the Greek-Cypriots, who were concerned about parking affecting their community centre, and the Leslie Industrial Property Park Association, which was worried about taxes.

The Muslims argued they would not



MICHAEL STUFARINK / TORONTO STAR

PRAYER OF THANKS: Sunni Muslims pray after East York council voted to accept their mosque.

was the only viable one within a reasonable distance of a set of high-rise buildings where hundreds of Sunni Muslim families live.

But in a 5-3 vote in October, councillors John Antonopoulos and George Vasilopoulos, who had previously supported the mosque, changed their minds and said the Muslim parking plan was not good enough.

At stake was a plan for 80 on-site spots, with more spots leased nearby.

After that vote, the Muslims stormed out of council, making accusations of racism. They later pointed out that several other religious institutions had been granted parking exemptions without a problem.

Antonopoulos later changed his mind again and voted for the proposal. But Vasilopoulos stuck to his guns.

Vasilopoulos says he has never opposed the mosque.

"If somebody wants to build, go right ahead, provided you follow the rules and regulations under planning," he says.

Vasilopoulos denies that pressure from the Greek-Cypriots led to his change of vote, adding that he had spoken with the Muslims as well.

Prue, however, is convinced the

community."

Vasilopoulos insists that historical tensions were never raised in any discussion with him.

"I don't know where you get the information," he says.

Sophocleous, vice-president of the Greek-Cypriot community centre, did not return a call from The Star.

But in an interview last October, Sophocleous called insinuations of racism untrue. His group hadn't done any lobbying, he said.

Sophocleous said he feared parking would jeopardize their building, which had been established a year earlier, just before an interim control bylaw prohibiting the use of such a space for a community centre had taken effect.

Vasilopoulos' opposition became clear this month when the Muslims came up with 115 on-site parking spots by demolishing part of the building.

He still voted against the proposal, along with Councillor Michael Tziretas. But the seven other councillors voted in support of the new parking proposal, which included parking cars behind one another, a plan approved by both the borough's fire department and planning commissioner.

Vasilopoulos says he didn't think the

the one submitted to us," Vasilopoulos says.

In a recent interview, Huq said that while he's always had difficulty comprehending the opposition of some councillors, it was Vasilopoulos' decision that has left him confused.

"Why did he later make parking such an issue?" Huq asked.

The battle had been divisive and emotional, Prue acknowledges, but he says he has yet to understand the "illogical switch" by Vasilopoulos.

"He gave one of the most eloquent renditions of a multicultural Canada, about a place for everyone (at the first council vote) to a portrayal that a mosque shouldn't exist because you have to park one car behind another," Prue says.

Huq says that after the March 4 council vote, he requested a meeting with the board of directors of the Cypriot community centre with a view to establishing a new relationship with their new neighbor.

He has yet to hear back from them.

The deadline for any appeal is April 4. So far no one has come forward. If there is one, the great mosque de-

This is a racist vote, our Muslims were shocked

# East York kills mosque

## Councillors vote down plan over parking spots

By PHINIO GOMBU  
STAFF REPORTER

Hundreds of East York Sunni Muslims stormed out of a council meeting, many of them chanting cries of "racism," when it became evident their proposal for a mosque was being turned because of insufficient parking spots.

"Let's get out of here. This is a racist vote," several said soon after councillors had finished speaking last night and were getting ready for the final 6-3 vote.

They left after two councillors, John Antonopoulos and George Vasilopoulos, who had previously supported the mosque, said they were now voting against it.

"Our members were deeply shocked and dismayed and just couldn't handle it," Abdul Haq Inger, president of the Islamic Society of Toronto, told reporters afterward.

"It's important they be dealt with firmly and they weren't," said Jeffrey Davis, the lawyer for the Muslims.

During his speech, Vasilopoulos rejected an accusation by Mayor Michael Prue earlier in the evening that parking was a smokescreen for those who never wanted the mosque in the first place.

"Parking is being used as something to delay and confuse the issue," Prue said, adding he wanted councillors to either reject or support the mosque outright rather than putting it in "limbo."

"We're all Canadians, but there are certain laws and regulations that we must follow," Vasilopoulos responded, adding parking was the only issue. Earlier this summer, the borough's council narrowly approved the mosque in a 5-4 vote subject to discussions between the planning commissioner and the Islamic Society of Toronto



ANGRY MUSLIMS: Sunni Muslims vent their anger last night at East York's municipal building after councillors voted 6-3 against their proposal for a mosque in a factory building because of parking concerns.

**ANGRY MUSLIMS:** Sunni Muslims vent their anger last night at East York's municipal building after councillors voted 6-3 against their proposal for a mosque in a factory building because of parking concerns.

about traffic and parking concerns.

The argument against the mosque then had been the loss of \$91,000 in industrial and property commercial taxes.

The proposed mosque was to be built within an existing factory building on Thorncliffe Park Dr. just north of Overlea Blvd.

But last week the borough's regulatory and development committee rejected the parking proposal of the Muslims after a failed bid by Ward 4 Councillor Tim Cholevat to kill the proposal, a move the council clerk warned was illegal.

The proposal was a bylaw to adjust the size of the workshop floor space as the parking spots became available.

The Muslims were only able to come up with 104 of the 130 parking spots they needed at the site and nearby. They are also negotiating with Ontario Hydro to use an empty lot previously used by a car dealership for the remaining spots.

But the majority of councillors said last night they weren't satisfied with the planning commission's suggestions and wanted more permanent guarantees.

During the debate, Prue got at least two councillors, Cholevat and Lorna Kravchuk, to acknowledge that even if the Muslims came up with a satisfactory parking plan, they would still vote against the mosque.

Another councillor, Michael Tziretis, did not directly respond to the mayor's question. But at least one section of the audience last night, a group of Cypriots, supported council's decision.

Dino Sophocleous, vice-president of the Cypriot community centre which is near the proposed mosque, said his

members were concerned about parking and congestion.

"I'm sure East York can accommodate them somewhere else," Sophocleous said, adding he did not think the accusations of racism were justified.

Sophocleous said members of his centre had not lobbied any councillors but were at the meeting because the matter concerned them.

Councillors who voted alongside Prue were Bob Dale and Norm Crone. Opposed were Tziretis, Kravchuk, Cholevat, Antonopoulos, Vasilopoulos and Paul Robinson.

## angry over pricey panels for blind

By PAUL MOLONEY  
CITY HALL BUREAU

City of Toronto officials have come under fire for spending nearly \$800 apiece on barriers that help blind and visually-impaired people avoid bumping into water fountains at city hall.

The city could have installed barriers at far less cost than the tempered glass, oak-trimmed panels that were picked, said Councillor Tom Jakobek, the city's budget chief.

"You really have to question who the hell is spending our money," Jakobek said yesterday.

"To use lacquered hardwood and smoked glass, you've got to have a screw loose."

Jakobek's budget committee was told officials approved spending \$35,000 for 45 panels — \$777 each — that were recently installed beside wall-mounted water fountains.

Jakobek was also incensed that \$98,450 was spent for 11 new reception desks and to modify six others for use with wheelchairs.

He insisted the existing desks, some no more than six years old, could have been raised the 10 centimetres needed for wheelchair clearance.

### MORE COSTLY

Jakobek said money saved on desks and fountain barriers could have gone to other projects to make city hall and other city buildings more accessible.

"These are dollars that are being taken away from people who have disabilities. If we're cheating anybody, we're cheating the people who are disabled." Geoff Eden, accessibility planner in the planning department, explained that be-

# muslims enraged over parking rejection

East York council proceedings erupted Monday night as angry Muslims stormed out of the chambers chanting accusations of racism.

The nearly 150 Muslims in attendance were waiting to hear if their submission for parking to service their proposed mosque at 4 Thorncliffe Park Drive would be accepted.

It was rejected by a 6-3 vote.

But before the vote could be taken, members of the Sunni Muslim Community of Thorncliffe Park Drive marched out of the chambers en masse. As they went, various members turned to councillors and accused them of racism. Some residents were so outraged by that they had to be physically removed from the premises by companions.

"This is sour grapes," accused Abdul Ingar, president of the Islamic Society of Toronto, after the meeting. "They don't want

They said we would work together, he added. "Is this their definition of working together? They are not fooling us."

Ingar thought the move to send the parking report back to staff for consultation and a further report was a 'delaying tactic' by some individual councillors who have opposed the mosque all along.

**His suspicions were seconded by Mayor Michael Prue, who wondered what purpose could be served by delaying this issue?**

"We should be telling them that they are the same as everyone else," the mayor declared. "We should be telling them that their mosque is just as important as all the other churches that dot this municipality."

"The request for more information is little more than a delaying tactic."



Muslims erupted in anger outside council chambers after their parking application.

ed that by using existing parking, tandem parking, donated parking spaces from neighboring facilities and a future parking agree-

ment with Ontario Hydro for use of a near-corridor for parking, the mosque could achieve a suitable ratio of spaces-to-worshippers.

From the beginning, mosque opponents on council, and among staff, have opposed the project due to fears of losing tax dollars and a lack of sufficient parking that would cause unnecessary congestion in the industrial area.

The mosque was given the green light in July, however, and the worshippers were told to consult with staff to achieve the proper parking arrangements. The Muslims maintained the current report adhered to this condition. Six councillors however disagreed and that was enough to send the residents and staff back to the drawing board.

Councillor Tim Cholvat said he made the motion to send the report back because it contained ambiguities that he couldn't sup-

# Решение

**SECRET**

תורת המידע

## U.S. Catholics

found 76 per cent of Catholics do not oppose sexual relations between unmarried people and 58 per cent have used artificial birth control methods.

Yet, even though the 75-year-old pontiff opposes all of the above, a recent New York Times poll found 67 per cent of U.S. Catholics think of him favorably, 2 per cent don't and 31 per cent had no opinion.

His 56-million member U.S. church is in good health. But Liberal Catholics warn that, un-

less the Vatican abandons its rules on celibacy and women priests, there will be hardly any American priests in the 21st century.

Some officials note his American flock is far from the most rebellious — just the loudest.

"We should be so lucky to have a church in Italy that attends mass as much as the Americans or is (as) active in volunteering," papal spokesperson Joaquin Navarro-Valls told The Washington Post.

## Mosque supporters pledge to fight on

By PHILIP GOSWAMI  
STAFF WRITER

East York Sunni Muslims fighting for a mosque, rejected because of insufficient parking, might bypass council as a waste of time and go straight to the Ontario Municipal Board, a community leader says.

"We're still contemplating whether it's worthwhile to have our next parking solution put to them for approval," Abdullahi Hsu, president of the Islamic Society of Toronto, said yesterday.

"If council doesn't have an open mind, then no matter what... (a proposed) mosque councilors will always find shortcuts," Hsu said, adding that the municipal board appeared to be their only option.

Hsu's comments came the day after council in a 6-3 vote, rejected a bylaw proposed by the borough staff, suggesting a possible solution to the parking situation.

All of this came after a 5-4 council vote in July to approve the mosque despite arguments that the Islamic Society of Toronto had not provided enough commercial tax revenue.

Because some of the 130 parking spots for the mosque were still being negotiated, the borough's planning commissioner put a clause in the bylaw that would have adjusted the amount of worship floor space as parking spots became available.

Discussions between the planning commissioner and the Islamic Society have already produced a possible 104 spots on the site and at a neighboring building that would allow worshippers to use 25 spots during peak Friday afternoon prayer hours.

Councillors said they wanted

something more permanent and guaranteed. Sliding scales of floor space and tentative agreements weren't acceptable.

That led to cries of racism from several hundred mosque supporters on Monday night, who stormed out of the meeting. They said the majority of councilors were trying to squelch the project and that parking wasn't the real issue.

"If any of the councilors think they will be successful in derailing the project, they are sadly mistaken," Hsu warned.

Councillor George Vasilopoulos, who, along with John Antonopoulos had previously supported the mosque but swung the opposite way on Monday, scoffed last night at accusations of racism.

He said his phone had been ringing all day with favorable calls from his constituents.

"I think I made the right decision," he said, adding that the sole reason he voted against the mosque was "out of concern there would not be enough parking spots."

A religious group, Vasilopoulos said, had to be able to find its own way to solve its problems.

Antonopoulos added he would have voted in favor of the mosque if the report before council was more complete.

Both councillors criticized Mayor Michael Prue, who said during the debate that the parking issue was a sideshow. Prue was out of the country.

Hsu said the leasing of parking spots can never be permanent. "It has to have a lifespan of five, 10, 12 or any number of years."

He also maintained that other places in the borough do not comply with bylaws and "substantial shortcuts are tolerated."

# snag may jeopardize mosque

By PHILIP GOMBU  
STAFF REPORTER

The recent hard-fought victory of East York's Sunel Muslim community that got them their place of worship is in jeopardy. A council committee has voted to reject plans for the mosque because of insufficient parking spots.

It's a move Mayor Michael Prue says is "procedurally illegal."

And it has also prompted the borough's race relations committee to fire off letters to councillors calling the vote "wholly unnecessary and possibly discriminatory."

Prue said yesterday that a 4-1 vote by the regulatory and development committee to reject the mosque's proposed parking plans filed in the face of a July 10 vote by council to approve the mosque.

Because two councillors, John

Antonopoulos and George Vasilopoulos, who previously supported the mosque for a narrow 5-4 victory, have now voted against it, council appears set to send the proposal back to the drawing board on Monday.

The vote came after Ward 4 councillor Tim Chelvat failed in his bid to kill the mosque plan entirely, a move the borough's clerk warned was illegal.

Earlier this summer, the borough's council narrowly approved the mosque "subject to the commissioner of development services consulting with the Islamic Society of Toronto to address the traffic and parking concerns."

The argument against the mosque then had been the loss of \$91,000 in industrial and commercial property taxes.

Plans call for the mosque to be built within an existing factory building on Thorndike Park Dr. just north of Overlea Blvd.

The planning department brought forward a report earlier this week to the regulatory and development committee after several meetings with the Muslims saying it saw no problem with their proposal for 130 parking spots.

The Muslims were able to come up with 104 possible parking spots at the proposed mosque and nearby, and said they were negotiating with Ontario Hydro to use an empty lot previously used by a car dealership for the other 26 spots.

Offering a possible solution — without recommending it —



MICHAEL PRUE

the planning commissioner offered a by-law, with a letter of undertaking from the Muslims that they would reduce or increase the floor space based on the number of parking spots.

It was not accepted by the committee.

Committee chair Michael Tziretas, who has always opposed the mosque, said the issue is not dead but simply delayed until mosque proponents come up with a better parking plan.

Tziretas said he didn't think what the committee did was procedurally illegal because the intent of the council vote for the mosque was that council would have the final say on the parking issue.

Mayor Prue, the only committee member to vote against Chelvat's motion, said the approval for the mosque in the first place was due subject to "consultations" with the planning commissioner about parking problems — and that was exactly what the Muslim community had done.

Other councillors who voted did not return phone calls to The Star.

Community spokespersons Abdulhaziz Inqar said councillors were trying to "derail the whole project" and it was a case of sour grapes particularly among councillors who have overruled the mosque in the first place.

Debbie Fung, vice-chair of the Committee on Race Relations, said the group's opinion was that other churches in the area "plainly do not meet the parking standards" being set on the

## Graffiti on schools cost board \$1.3 million

By ANDREW DUFFY  
EDUCATION REPORTER

Toronto trustees have asked for staff suggestions on how to spruce up the city's schools, which are increasingly marred by litter and graffiti.

The school board paid \$1.31 million last year to remove graffiti, repair broken glass and replace stolen goods, according to a vandalism report presented at yesterday's board of education meeting.

Vandalism and its associated costs dipped last year — from \$1.37 million in 1993 — but the cost of removing graffiti increased by \$35,000.

"The board is experiencing a rapid increase in calls to remove graffiti both inside and outside schools," the report notes.

"One possible contribution to this increase is that the outboard in the board's painting program is giving the schools a neglected appearance and this in turn encourages graffiti."

Budget cuts mean many schools are painted once every eight or 10 years.

Trustee Ann Varstone said the graffiti problem is part of a larger problem with the "messy" state at some of the city's 150 schools.

"We received more calls from constituents this fall complaining about litter than ever before," said Varstone. "People are saying it's worse than it has ever been."

Trustee Sio Wong said the board has to get tough with students who are caught defacing school property, particularly those who are caught for a second and third time.

The board asked senior staff to come up with a plan that involves students and teachers in the beautification of their schools.

When the cost of replacing stolen goods reached \$500,000 in 1992, the board locked down computers and installed surveillance equipment, motion detectors and barred windows at many of its schools.

Last year, police equipment

costed the board \$175,000.

# ACID

## ONTARIO STAFF

February 20, 1996

# Mosque finally wins go-ahead

By JOHN DUNCANSON  
AND NICOLAAS VAN RIJN  
STAFF REPORTERS

East York council has given the green light to plans for a controversial mosque for the borough's Islamic community. The borough's council voted 7-2 to approve a revised parking plan for the mosque, which will be located in an industrial build-

## 'Life will carry on' with strike, Tory says

By LISA WRIGHT  
TORONTO PAPER BUREAU

A strike by Ontario government workers would be inconvenient for many people but wouldn't paralyze the province, **Minister Johnson** says.

"I'm sure the sun will rise in the morning and life will carry on — albeit with more difficulty than before," he said yesterday.

"We're going to be working our damndest to avoid a strike, but we can't cave in, I suppose, in terms of meeting the fiscal objectives of the province of Ontario," Johnson added.

Ontario government negotiators and civil servants are back at the bargaining table after the Ontario Public Service Employees Union (OPSEU) rejected the latest contract offer by 68.5 per cent. Seventy-two per cent of the union turned out for the three days of voting that ended Saturday.

That means that as early as next Monday, the 67,000-member union could be on picket lines for the first time in its history.

OPSEU president Leah Casselman called it "an incredibly strong mandate" considering the fact that union members fear the government's agenda to chop thousands of civil service jobs.

"It's allowed the employer to realize that public sector employees are not going to be the

ing close to several high-rise apartment buildings on Thorncliffe Park Dr., near Overlea Blvd., where about 500 Sunni Muslim families live.

"What gift could be more valuable than a place of worship?" said Abdul Ingar, president of the Islamic Society of Toronto. "We are very happy to see we came up with solutions."

It was, he added, "a nice present to be handed on the last day of Ramadan," the month-long Muslim fasting period.

Just before the vote, East York Mayor Michael Prus urged councillors to accept the recommendation of the borough's regulatory and development committee, which called for a reduction in the size of the prayer hall in order to accommodate 115 parking spots, some of which will be tandem, or double-parking, spots.

"It's workable, it's do-able, and it provides sufficient parking," Prus said.

But two councillors, George Varlupoulos and Michael Tziretas, said that, despite the revised plans, they still couldn't approve the mosque plans.

"I cannot, in good conscience, support this," Tziretas said, adding he continued to take issue with the zoning of the site.

The proposed mosque has been a hot potato for East York since the Islamic society purchased the building after EDA Instruments, the satellite communications manufacturer that last occupied it, outgrew the space and moved out in 1995.

When East York's planning committee first received the proposal last June, councillors voted 5-2 to kill the conversion. That followed a planning department recommendation against having a tax-exempt house of worship in space zoned light industrial and commercial.

With a shrinking industrial tax base, planners argued, the tiny municipality simply couldn't afford to lose the annual \$91,000 it collected in business and realty taxes.

Parking was also an issue from the very beginning, but the mosque's supporters argued that the number of parking spaces demanded wasn't being required for older, more established churches in the borough.

# Muslims win round in battle for mosque

By JIM RANKIN  
STAFF REPORTER

East York Sunni Muslims crossed a hurdle in their quest to have a place of worship yesterday, but the biggest obstacle comes Monday night when councillors cast their final votes on the a parking plan for the mosque.

And it could be close. In a 3-2 vote yesterday, the Borough of East York regulatory and development committee endorsed a revised parking plan for the proposed Thorncliffe Park Dr. mosque site.

In supporting the Islamic Society of Toronto's plan — which proposes a reduction in worship space and 11 more parking spots — Mayor Michael Prue urged councillors to support the mosque.

"Our reputation is at stake as a community," Prue said. "This whole issue has become far more than a simple planning and parking issue. If we don't (endorse the plan), I fear our image will be tarnished."

Council voted 5-4 in July to allow the mosque, provided parking concerns were addressed. The council turned down a parking proposal in October, prompting cries of racism from some Muslims.

But the two dissenters yesterday — councillors George Vasilopoulos and Michael Tziereas — maintained the mosque issue still has everything to do with parking, and lost tax revenue.

## DOUBLE PARKING SPOTS

Places of worship don't pay taxes. Rezoning the commercial/industrial site would mean a loss of \$91,000 in taxes.

Mosque planners are proposing to reduce the worship area, which would make for more parking spaces and comply with borough requirements. About a third of the planned 115 parking spots are tandem.

The parking plan has the support of both the fire department and planning commissioner.

But Tziereas said he didn't think it was safe, or practical.

The councillor said 31 tandem (double) parking spots in the new plan amount to "traps" that wouldn't allow worshippers to get out of a packed parking lot in an emergency.

"Personally, I wouldn't park there," said Tziereas. "I don't think the council will ever approve tandem parking."

The mayor called that argument thin.

He said worshippers would be at the mosque for an hour at a time — together. Anyone



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— MICHAEL PRUE  
EAST YORK MAYOR

blocked in the lot in an emergency would surely get a lift from a fellow worshipper or have the cars moved, he said.

The mosque has been an painful thorn in the borough's side. Racist motives have been alleged to explain some councillors' stonewalling.

Yesterday, Prue hinted as much.

"We say we are open to new people and new ideas," said the mayor, "and I'll tell you, (the Muslims) have done so much to make sure that this does not inconvenience anyone. They have done it all."

Vasilopoulos, who voted in favor of the mosque in July and later changed his mind, said he thought the new parking plan wouldn't work and offered to help the group find another site.

The Thorncliffe Park Dr. site is next door to the Cypriot-Greek community centre.

Abdullah Ingar, president of the Islamic Society of Toronto, was startled by Vasilopoulos' dissenting vote. The councillor is considered to be a crucial swing vote at next Monday's council meeting, he said yesterday.

"He keeps saying alternative site — well, why say this now, so late in the game? He endorsed that as a site and voted for it in July," said Ingar.

"George is sort of trying to keep his distance and I sort of wonder at the reasoning of it. I hope he's not being pressured by other people in the community, because that's unfair."

Jeff Davis, lawyer for the Islamic society, said, "The opposition is obviously directed by other motives. The motives are to keep (the Muslims) out."

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## Council approves mosque, but LIPA may appeal

Muslims rejoiced Monday night as East York council voted five to four in favor of the bylaw to allow a mosque at 4 Thorncliffe Park Dr. But that joy could be short lived as Leonard Linton, president of the Leaside Industrial Park Association (LIPA), has stated they may be appealing the decision to the Ontario Municipal Board (OMB).

In previous meetings, LIPA has about bringing the matter before the OMB and now that council has ruled in the Muslims' favor "that's probably the direction we will be taking," Linton said.

LIPA objected that council overrode zoning bylaws and placed the mosque within an industrial area, he said.

"It's like fitting a square peg in a round hole," he said.

The group also found it odd that council chose to ignore the Clayton Report and their own economic development staff when making their decision, he said. The Clayton Report was commissioned by the Borough to look at the East York Centre. It stated that a house of worship in the Thorncliffe Park Drive area should be avoided. The Borough's economic development department advised councillors to reject the mosque because it would

cost the municipal coffers (including Metro and the school boards) \$91,000 in taxes annually.

The Sunni Muslim community have been lobbying council since last July for a local mosque to serve the approximately 500 families in the area.

Council rejected a parking proposal put forward by the Muslims in September, forcing the group to go back to the drawing board. However, a revised plan presented just one month ago was accepted.

This cleared the way for council to pass the bylaw Monday night.

Jeff Davies, solicitor for the Muslims, said the move by LIPA came as no shock.

"But I do find it regrettable," he said.

Davies said he has to wait and see what will happen.

"The Muslim Community is counting on the continued support of council," he said.

Mayor Michael Prue said he was disappointed with LIPA's attitude. However, he said he had warned the Muslims there would be appeals.

"We will just have to wait and see," he said.

Prue said the decision whether to support the mosque at the OMB would be put before council.

"If it's being appealed our position would be it's a fundamental right to have a place of worship," he said.

This attitude matched Prue's stand at council when he championed the mosque.

oned the mosque.

"This is seen as a test and a resolve for our community to be open and hospitable," he told the crowd who packed the council chambers.

Prue added he was proud of the decision council made and he hoped that they could now put the whole incident behind them.

Abdul Ingar, president of the Islamic Society of Toronto, council gave its final approval for the Thorncliffe Park Drive mosque. Here, Iqbal Koli and Kasam Bhol celebrate the good news



It was all smiles, prayers and good will at East York Civic centre Monday night when council gave its final approval for the Thorncliffe Park Drive mosque. Here, Iqbal Koli and Kasam Bhol celebrate the good news

Tim Cholvat has given a lot of good thought and consideration (to the mosque) and made the right decision," he said.

Cholvat, for his own part was brief. He said he always based his decisions on what was best for the community and with the new parking arrangement he saw no problem with allowing a house of worship in the area.

His belief was not shared by his Ward 4 colleague Lorna Krawchuk who voted against the mosque.

Though she said she heard many "emotional appeals," she couldn't commit valuable space within the borough's limited industrial area to a house of worship.

"Freedom of worship is not the issue. The question is where the worship will take place," she said.

That will mean the East York board will have to cut some \$600,000 in spending this year.

East York board Chair Gail Nyberg said the mill rate decision was good news for students, although it wouldn't be the greatest news for taxpayers.

"Now that we have a rate, we'll look at the whole budget and see where we can trim it down," she said.

Nora Gray, superintendent of

financial and plans services for the East York board, said the rate will add about \$18.75 to the average household tax bill in the borough.

Nyberg had supported a move by Toronto trustees to raise the mill rate two per cent, saying that was within the range approved by the local board.

"I believe that's a responsible move to make," she observed, noting it would maintain the status quo.

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## Metro board adds 1.5 per cent to mill rate

If you're a public school supporter in East York, your education taxes are going up 1.5 per cent.

Trustees on the Metropolitan Toronto School Board Tuesday night approved the increase in the mill rate for 1996. This was in the middle of the one to two per cent range the East York board had agreed to lobby for. Staff at Metro had determined a two per cent increase would be needed to maintain the current levels of service.

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