

Is it better to buy or to rent...Three alternate models of holding real estate presented in Leviticus Chapter 25.

Reading through Leviticus Chapter 25 I realized I was reading what is the ONLY real estate code in the Torah. That may not be exciting to most people but to me, as a professional real estate broker for more than 25 years and a Torah Scholar Wannabe, it was like hitting the Megabucks!

It did not take long, however, to realize that my real estate career in Ancient Israel would have been very short. In fact, this real estate code, which I will call Model A, is a brokers nightmare because, as we learn in Chapter 25:14-16 *When you will make a sale to your fellow or buy from your fellow's hand...you shall buy from your fellow by the number of years after the jubilee. He shall sell to you by the number of years of yields corresponding to a greater amount of the years, you shall make its price greater; and corresponding to a smaller amount of the years, you shall make its price smaller – because it is a number of yields that he is selling you.** - we encounter the real estate math required by buying and selling land accounting for the Jubilee year, when all land reverts to its clans and tribal groups. All the math involved would put me right out of business. I had not thought about the Jubilee year in real estate terms before. Verse 23 explains the underlying theory, when G-d says *The land shall not be sold permanently, because the land is mine...* . This land belongs to G-d, we are told, who grants his people 49 year leases! Furthermore, in this early Bronze Age pre-money agricultural economy they were buying and selling crop futures and any out-buildings and houses incidental to the agricultural enterprise in a way that would probably earn them seats in the Chicago Commodity Exchange.

Okay, I get it. A real estate broker's nightmare, and even worse for a mortgage lender or a banker. In verses 35-37 we read *when your brother will be low so that his hand is slipping with you, then you shall take hold of him – an alien and a visitor – and he shall live with you. Do not take or a charge from him; but you shall fear your G-d, and your brother will live with you. You shall not give him your money for interest, and you shall not give him your food for a charge.* Thus, Model A, geared to maintaining the status quo, is a wonderfully supportive, nurturing environment for the community but not great for the entrepreneurial spirit – nor was it meant to be. Furthermore, the fact that it was written and maintained in the text may just indicate that the people needed to be reminded to be so nice to each other. What rationale did G-d give to follow these laws? Verse 38 tells us it is because G-d says *I am YHWH, your G-d, who brought you out from the land of Egypt to give you the land of Canaan, to be G-d to you.* All this is nice. Very nice. A model in which there are 49 year leases on tribal lands and then, if you

found yourself in financial trouble and had had to be bailed out, you get your share back. And the land remains in the family.

Surprisingly, we find a very different real estate model in Verses 29 and 30 – Model B – *When a man will sell a home in a walled city, then its redemption shall be the end of the year of its sale. Its redemption shall be for [a full year of] days. And if it will not be redeemed by the completion of a full year for it, then the house that is in a city that has a wall shall be established permanently for the one who bought it, through his generations. It shall not come out in the Jubilee.* These houses, in walled cities, are freehold! – well, almost. They can be redeemed until one full year has passed and then the sale becomes final. The Biblical word used is V'kam - from the same root as Va-yakom used in Genesis 23:20, when Abraham bought the Cave at Machpeleh, which means to stand, to belong to, to become the property of into perpetuity. Just to make sure we get it right, verse 31 tells us *As for houses of the villages that do not have a wall around them: it shall be figured along with the land's field. It shall have redemption, and it shall come out in the Jubilee.*

And then there is a third model, Model C, which is a hybrid of the first two models: the Levites' Cities. In verses 32-34 we read *as for the Levites' cities, the houses in the cities of their possession: the Levites shall have eternal redemption. And that which one from the Levites will redeem: it shall come out, a sale of a house and of a city of his possession, in the Jubilee, because that - the houses of the Levites' cities – is their possession among the children of Israel. But a field of their cities' surrounding land shall not be sold, because it is an eternal possession for them....* these houses are leasehold but the land is freehold!

I am fascinated by this exemption of the houses in WALLED cities from the redemption in the Jubilee. Why are these houses owned with a completely different ownership model? The Levites I understand – their social/professional role was unique. But walled cities?

In early biblical times there were not very many of these cities and they were not very big. Harper Collins Bible Dictionary says the average walled city was between 5 and 10 acres. As an acre is a little more than 44,000 sq. ft, the city would be the size of 20 to 40 houses on 10,000 Newton Center lots. Archeologists tell us the oldest walled city in the area was Jericho, with the oldest remains dating to about 7,000 BCE. The next oldest walled cities, Megiddo and

Gezer, were built 4,000 years later, in about 3000BCE. Rashi teaches that not all walled cities were included as having exemptions from the Jubilee year redemption – but only those in walled cities that were already walled at the time of Joshua; a somewhat interesting commentary considering technically Leviticus was to have been written before the conquest of the land.

Interbiblical interpretation does not do very much to enlighten us about our very little, anomalous real estate code: Ramban and Rashi both focused on why there is a one year right of redemption. Contemporary scholars give it more ink. Baruch Levine, in the JPS Torah Commentary, writes that walled cities were mostly occupied by “artisans and those we would today call service professions...”. Here we should not forget to cite Joshua, who, in Chapter 2:1-7 was assisted in his capture of Jericho by Rahab – certainly a service professional. Both Levine and Jacob Milgrom in the Anchor Bible Commentary on Leviticus, talk about how these few walled cities had special status and tax exemptions and were ruled by the ancient Mesopotamian/Sumerian Eshnunna Law – a code earlier than that of Hammurabi; while Martin Noth said it was very ancient Canaanite law. Now, this is starting to get very interesting! Why were these walled cities under a different legal code? The contemporary scholars are giving us quite a bit of information about what was going on but not much in terms of why. Yochanan Muffs taught that “the Jubilee provisions are directed solely to the land, not to the cities, because [the land belonged to G-d but] the cities were human achievements.” But why Eshnunna or Canaanite law?

My theory is that when the Israelites came into the land they did not conquer these walled cities, which rather remained in Canaanite hands, ruled by some alternative law code, until the Israelite tribes became more entrenched in the area and some segment of the Israelite population began purchasing these houses on a freehold basis. I am sure that Israel Finkelstein and the more modern Israeli archeologists would strongly disagree as they are the ones who said “the Exodus never happened and the walls of Jericho did not come a-tumbling down”. But regardless of the theories of any of the archeologists who worked at these ancient walled sites for the last 150 years or so, something was going on in Biblical and early rabbinic times that differentiated walled cities from towns.

Tractate Eruvin, which spends 10 chapters discussing how far you can walk and carry things on Shabbat, has different rules for walled cities than for areas outside of the walls. And, we are not to forget Shushan Purim, celebrated on the 15th of Adar in walled cities but “regular” Purim

is celebrated on the 14th of Adar in non-walled cities. The only city really celebrating it on the 15th these days is Jerusalem however I have been told that in Sefat, where it is not clear if the city was walled at the time of Purim, the people celebrate by reading the megilla on the 15th without reciting the blessings.

Thus, Leviticus Chapter 25:29-30 gives us a peak at a remnant of an alternate real estate code, different from the one described in the rest of the chapter, in which all the land reverted to original tribal owners on Yom Kippur of the Jubilee Year.

So, in the long term, is it better to buy or to rent?

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Delivered at the Chapel Minyan, May 4, 2013

*Biblical quotes from the [Commentary on the Torah](#) by Richard Elliott Friedman 2001.