

NEWS/POINT OF VIEW

JERUSALEM

Group raising funds to build 3rd Temple

Israel's Temple Institute has launched a new crowd-funding campaign to build a thoroughly modern Third Temple.

In a statement released – in the midst of Operation Protective Edge – the Institute proclaimed that “true peace will only be achieved with the building of the third Holy Temple” and urged all to contribute to the construction of “the promised house of peace and prayer for all nations.”

Donations, collected through popular fundraising platform Indiegogo, will fund the institute's ongoing research and the completion of architectural designs for the new temple.

While adhering to the religious requirements set forth in Biblical texts, blueprints are also said to include modern conveniences such as full computerization, temperature control, underground parking, elevators and wheelchair access, among other amenities.

Launched alongside the campaign is the latest in a series of YouTube videos posted annually by the organization in tandem with Tisha B'Av, the Jewish national day of mourning for

the destruction of the First and Second Temples. The brief clips depict a younger generation readying for a new temple.

“The ‘old school’ thinks [building] will only happen when everyone is united by unconditional love,” reads the statement. “But the future is now... This is the generation that will rebuild the temple.”

The Temple Institute, located in Jerusalem's Old City, has been focussed on constructing a third temple and raising public awareness of the Biblical commandment to do so since its inception in 1987.

The effort is a controversial undertaking on several levels. The proposed building site, the Temple Mount, is the most contested piece of land in Israel. It already hosts Muslim shrine the Dome of the Rock and the al-Aqsa Mosque, and Jewish access to the site is highly limited. Within Judaism itself there are rabbinic prohibitions and contemporary socio-religious concerns that would also make such an endeavour problematic.

The campaign will close Sept. 25.



Shuls, kollelim assemble for inspiring evening

For the first time, shuls and kollelim from the Clanton Park/Downsview area gathered for an evening of learning, davening and inspiration last Tuesday. This evening of inspiration was initially planned as a shelosim memorial for the three teenage Israeli boys who were killed recently. The war in Israel and the fallen soldiers have added a dimension of tefilla for the people and for the Israeli soldiers. The evening began with a choice of 23 concurrent classes for men and for women followed by words of inspiration by Rabbi Yehoshua Weber, Tehillim and tefillos. Participating shuls and kollelim included: Beth Jacob, Beth Joseph Lubavitch (Edinburgh), Clanton Park, Emek Tefilla, Kollel Yismach Moshé, Magen David, Mishkan Avraham at Ulpana, Mizrahi Bayit, Or Chaim Minyan, Petah Tikvah, Tiferes Yaakov, Torah V'Avodah, Uptown Chabad Lubavitch and YU Torah Mitzion Kollel. (Photo: Arthur Herzog)

Setting aside unconscionable prenuptial agreements



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Lawrence Wilkes, a 62-year-old sophisticated businessman, proposed marriage to Mary. She was only 21 years old, developmentally handicapped and very unsophisticated. Lawrence took Mary to his lawyer where, without the benefit of independent legal advice or disclosure of Lawrence's assets, she signed a prenuptial agreement. By so doing, Mary gave away her right to make any claims against Lawrence or his estate. When Lawrence died, Mary was left with nothing and she sued. Her lawyer said that the prenuptial agreement was “unconscionable” and should be set aside. The case was heard in Montana.

What does unconscionable mean in Montana? Mary's lawyer argued that the prenuptial

agreement should be set aside because it was unconscionable to enforce a contract when there was no disclosure to Mary, she did not understand what she was doing and there was no independent legal advice. The Montana Supreme Court said that there was nothing wrong with the agreement. In their view, Mary understood what she was doing and the fact that she functioned at a low intellectual level did not make it unconscionable that she keeps what she brought into the marriage and shares only whatever might have been added to her husband's premarital assets during the course of the marriage.

Montana's Supreme Court upheld this prenuptial agreement even though it did not pass the smell test. Not all of the judges in Montana's Supreme Court were comfortable with their decision. Let's take a look at what bothered one of the judges. “I concur with our legal analysis and, albeit reluctantly, with the result of our opinion. Nonetheless, I remain troubled that a 62-year-old, sophisticated businessman can take his 21-year-old, developmentally disabled, unsophisticated bride-to-be to his attorney and, in summary fashion and without her being separately represented

by counsel, obtain her signature on a prenuptial agreement that effectively divests her of all interest in his property upon his death. If the applicable law included a mandate that a prenuptial agreement must also pass a smell test to be not ‘unconscionable,’ this one, most certainly, would fail.” What would happen if this case came to Ontario?

Arguably, Ontario statutes and courts understand unconscionable to mean something different. In both Montana and Ontario, a prenuptial agreement can be set aside if the agreement is unconscionable. However, Ontario courts have been more open to setting aside prenuptial agreements that they feel are substantially unfair.

One benchmark used is the Spousal Support Advisory Guidelines. Under the common law, contracts have always been capable of being set aside if they were unconscionable. In Ontario, the idea of what is unconscionable has been expanded when it comes to family law disputes and prenuptial agreements. For example, under Ontario law, a surviving spouse may apply to the court to have a domestic contract set aside on the basis that their spouse failed to make full disclosure. A case in point is the case of Rick v.

Brandsema.

It seems as if Canadian courts have broadened their definition of unconscionable and have been more willing to set aside prenuptial agreements on that basis. In Rick v. Brandsema the husband failed to make full disclosure of his assets to his wife and she was not mentally stable. To the Canadian courts, based on previous case law and our statutes, the prenuptial agreement was unconscionable and was set aside.

A caution to the reader. This short review of the case law should not be taken as legal advice. Based on our experience in dealing with cases where prenuptial agreements are challenged, they often turn on the specific facts. If you have a legal question relating to setting aside a prenuptial agreement there is no substitute for speaking to a competent lawyer and seeking advice.

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