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November 24, 1993

Lord Jakobovits
The United Synagogue Eruv Committee
9 West Heath Road, Hampstead
London NW# 7UX, England
United Kingdom

Dear Lord Jakobovits:

I have been special counsel (*pro bono*) since 1990 to the Greater Boston Eruv Corporation, a non-profit corporation which was established to construct and maintain an Eruv for the Orthodox Jewish communities living in the Cities of Boston and Newton and the Town of Brookline, Massachusetts. These are contiguous municipalities.

I am a member of the Reform Jewish Community. I am also an advocate for the disabled community of which I am a member by virtue of the leg braces and crutches which I have used since I suffered poliomyelitis as a ten year old in 1955. As you will see, the issue of enhancing the quality of life for persons with disabilities was a key factor in my decision to help with the Eruv.

I agreed to help those trying to establish an Eruv in the Greater Boston Area not because this would directly benefit me and my way of life as a Jew. As a Reform Jew, the issue of carrying on the Sabbath is not a significant issue. Rather, I felt a commitment to help when I learned that an Eruv would provide a significant enhancement to the quality of lives of some people, in this case Orthodox Jews, without creating any detriment whatsoever to others. When I learned that an Orthodox Jew in a wheelchair could be pushed in public areas such as streets and sidewalks to the synagogue on the Sabbath if there were an Eruv, I agreed to help.

There are others too who are aided by the presence of an Eruv. I am sure that these have been mentioned. One such example is the young couple with children who, with an Eruv, can enjoy going to the synagogue together to worship, since children could then be carried or pushed in carriages. Nevertheless, as I discovered for myself and as discovered by non-Jewish advocates for persons with disabilities, the Eruv is a meaningful and significant change for disabled persons of the Orthodox Jewish faith - and these advocates, many of whom were non-Jewish, uniformly supported the Eruv proposal in the three municipalities.

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The Eruv was approved for large segments of three adjoining municipalities - Boston, Brookline, and Newton. These communities do not have Jewish majorities, and indeed, the Orthodox communities are small in number and proportion within the Jewish populations. The legislative bodies were predominantly and in the case of Boston exclusively non-Jewish. The heads of the various departments dealing with streets, poles, wires, etc. in these municipalities were non-Jewish. These three communities also have very historic areas and very active historical preservationist and conservation/naturalist advocates within and outside governmental agencies.

There was no sense of divisiveness, no sense of exclusiveness or exclusivity. They viewed the project as, to repeat the oft-repeated description, "benign", and with significant social benefit for a portion of the public. I should add that nobody within these groups and agencies delved into the nature of the faith or their "rules" and religious laws, as to whether there was sophistry or whether people should disregard part of the rules. Once these communities and the advocates for preservation (both historical and conservationist) understood the nature of the Eruv, they determined that it was, again, benign in every sense of the word.

Since the construction of the few portions of the Eruv which were needed (most of the Eruv uses existing fences etc.), there have been no controversies whatsoever. Unless one actively and purposefully seeks out the "hardware" which constitutes the Eruv, one cannot tell where it is.

I should add that I am also a member of the American Civil Liberties Union which is a staunch advocate in the United States for separation of Church and State. I have read concerns by some that creating an Eruv will be the equivalent of governmental endorsement of a particular brand of religion or of an imposition of that religion upon others. I can say the following only as an analogy from the experience in the United States. In America, with the Constitutional right to freedom of worship there is the concomitant bar against links between government and religion. You may have heard of cases in the U.S. Supreme Court which barred religious symbols such as the star of David, crucifixes, nativity scenes, and menorahs from governmental land.

Significantly, the federal (United States) courts and those state courts which have heard Eruv cases have unanimously ruled that an Eruv creates no governmental link with religion. All these cases have reasoned as follows: (1) there are no signs or symbols which manifest any religion whatsoever; and (2) the governmental action in approving the erection of poles and wires as part of the Eruv will result in the ability of part (Orthodox Jews) of the general community to enjoy public/governmental areas, e.g., sidewalks, streets, and parks, more fully like other citizens, on the Sabbath days. Once again, the courts used the term "benign".

Both rationales have proved true in the case of the Eruv in Boston. I should add that the second rationale has an additional consequence at a time when the Americans with Disabilities Act and other laws have been passed to enhance the lives of the disabled members of our community. The Eruv has brought out disabled Orthodox Jews from their homes into the streets and into their places of worship, like others in the community.

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The Eruv has been and remains intact through one of the worst winters (1992-1993) we have had over the last fifty years, and through one hurricane. There have been no safety and no maintenance problems - and no complaints whatsoever.

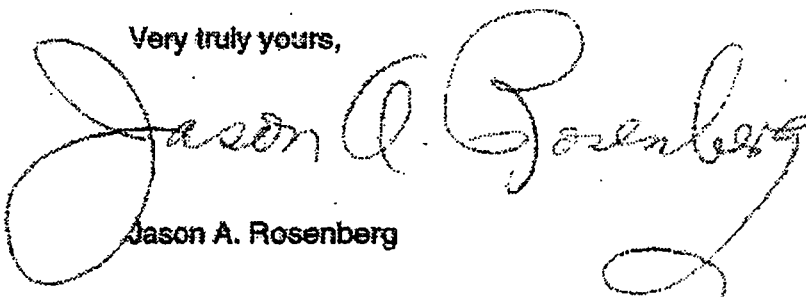
In my synagogue, Temple Beth Avodah, and among many other Reform Jews, while the Eruv does not have a direct impact upon our lifestyles, anytime the quality of lives of some are enhanced, we all are. Our Jewish community in the Greater Boston Area is small when compared with other urban centers in the United States. Occasionally acts of anti-semitism emerge. The Eruv, because it is so benign, has never been a target or even mentioned by those bent on words or deeds of anti-semitism. Sadly, targets often consist of cemetery headstones because these targets are clear and visible signs of Jewish faith. The Eruv, by its nature, just does not have such characteristics.

In short, the Eruv in the Greater Boston Area has not created disharmony, has not created a physical or mental state of a ghetto, has not created a dangerous precedent, and has not created a territorial demarcation. I suggest that approving the Eruv is within the scope of public action, and that the reality (as opposed to the perception) of the Eruv's impact should result in its approval. The benefits to those who are Orthodox Jews, and I would suggest especially to those Orthodox Jews with disabilities, are significant.

I hope that you and the public officials and citizens involved in the decision for an Eruv for certain areas in England will find my comments and experience helpful.

Please do not hesitate to contact me if you have any further questions.

Very truly yours,



Jason A. Rosenberg

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cc. The Planning Inspector
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