Transferring Ownership of a Chabad House to your Moisod

Some Shluchim who purchase a Chabad House in their personal name subsequently deed the property to their moisod to qualify for property tax exemption.

The standard residential loan agreement contains a “due on sale” clause which provides that if the borrower sells or transfers the property before the loan is paid off, the entire loan amount is due immediately. Thus, when the Shliach would convey the property to the moisod, he’d be in breach of contract. Although the Cal. Supreme Court case Wellenkamp v. Bank of America ((1978), 21 Cal. 3d 943, 953) limited the enforcement of a due-on-sale clause to where the lender can show reasonable necessity or risk of default, the U.S. Supreme Court (Fid. Fed. Sav. & Loan Ass’n v. de la Cuesta (1982) 458 U.S. 141, 161) later held that a federal regulation (12 CFR § 545.8-3(f) (1982)) takes precedence over that decision. California courts have respected that USSC decision; see, e.g., Parks v. MBNA Am. Bank, N.A. 54 Cal. 4th 376, 391 (2012).

It is a common but erroneous belief that the lender doesn’t care; or that if enough time passes the borrower is “off the hook”. However there is also a standard Anti Waiver clause which states that any forbearance by the lender in exercising any right or remedy including the lender's acceptance of payments from successors in interest of borrower, “shall not be a waiver of or preclude the exercise of any right or remedy.” In other words, the lender can exercise his right to foreclose many years after the event.

The fact that lenders do not exercise their rights vis-à-vis the due-on-sale clause may be because there is no financial incentive to foreclose when interest rates are low. But historically speaking, if a lender is servicing a portfolio of low interest mortgages in a higher interest rate environment, he will use all means to enforce the contract in order to re-lend the money at the higher market rate.

If you believe that the potential property tax savings from such a transfer outweighs the associated risks, I urge you to seek legal counsel first and to be sure you have a plan “B” in place to refinance in the event your mortgage is accelerated by the lender. As a mortgage originator under the jurisdiction of the National Mortgage Licensing System pursuant to the Consumer Financial Protection Bureau’s Regulation G, I must advise you not to breach your loan agreement!

To purchase your Chabad House or personal residence in the name of your moisod in order to claim the nonprofit property tax exemption would require that you finance the property with a commercial bank rather than with a residential lender. Here are the salient differences between commercial and residential financing:

**ADVANTAGES OF COMMERCIAL BANK FINANCING**
- Property Tax Exemption if purchased by Moisod
- Personal credit or income is not relevant
- Arguably an easier capital campaign with your BB’s
- No tax returns are required

**ADVANTAGES OF RESIDENTIAL FINANCING**
- 30 year, fully amortized term (no interest rate risk)
- As little as 3.5% down payment (30-40% for Commercial)
- Little to no closing costs
- Property owned by the Shliach
The scenario described above favors the commercial mortgage over the residential mortgage by over $50,000. On the other hand, two compelling arguments can be made for the use of residential financing; greater leverage (lower down payment), and elimination of interest rate risk. Interest rate risk occurs whenever a borrower is compelled to refinance since one cannot anticipate the future interest rate; nor can he be fully confident that he will qualify for financing at said point in the future.

In conclusion, it is prudent to carefully consider your options prior to reaching a decision as to how to finance your moisod.

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Shluchim we’ve helped

**Rabbi Gill Leeds**  
*Chabad of U.C. Berkeley*

I have been the beneficiary of Yonatan’s expert guidance. He has been a trusted steward of Shluchim for many years and he has made it his personal Shlichus to help the Rebbe’s Shluchim in a way which he knows best.

**Rabbi Yitzi Steiner**  
*Chabad of the University of Minnesota*

Yonatan has been a blessing. He understands the Shluchim’s needs and the way our operations run, not to mention his banking and mortgage background.

**Rabbi Baruch Ezagui**  
*Chabad of La Jolla*

Yonatan is the best shliach to the Shluchim. He is the perfect liaison between your moisod and the finances you need to make things happen.

**Rabbi Shloime Chein**  
*Chabad of U.C. Santa Cruz*

Yonatan knows the mortgage industry very well and knows Shlichus life very well; he is therefore able to work with Shluchim’s unique needs in preparing all the finances properly and obtaining very pleasing loans.

**Rabbi Moshe Levin**  
*Chabad of Pico Robertson (Bais Bezalel) Los Angeles*

I can say adus how Yonatan uses negotiating and people skills in extremely difficult situations that require intelligence and acute diplomacy, and he aces. This guy’s a mentch who has humility and derech eretz that you can speak openly to and trust he will respect your confidence. He is the man!

**Rabbi Dov Newman**  
*Chabad of Beverlywood*

The standard of expertise, professionalism, and genuine care that Yonatan exhibits can’t be duplicated. I highly recommend that you consult with him.
Rabbi Chaim Zaklos  
*Chabad of Solano County*

It became clear early on that I could let my guard down with Yonatan because his only consideration was protecting me and helping me with my Shlichus. If you’re planning to purchase or refinance, you are well advised to consult with Yonatan early on.

Rabbi Yossi Lipsker  
*Chairman of the Board of Directors Cheder Menachem, Los Angeles*

Yonatan knows what he's doing and you can count on them to represent your best interests.

Rabbi Shmuel Gancz  
*Chabad of Suffern, NY*

With the daily challenges that a shliach faces it was so heart-warming to know that there are people like Yonatan who just care, and care enough to make a difference in our Shlichus! He managed to secure a mortgage for us in no time.

Rabbi Avremi Mintz  
*Chabad of South Metro Denver*

Yonatan helped us secure a mortgage at an amazing rate, saving us a significant amount of money. We are grateful and blessed to have met Yonatan. I would highly recommend using him for your future mortgage needs.

Rabbi Zalman Marcus  
*Chabad of Mission Viejo*

My only regret is that I didn't meet Yonatan 15 years ago when I started with my first mortgage. He is a caring mentch who knows his field and works on your behalf. He understands our needs and is able to help from a unique vantage point.
Shluchim we’ve helped

Rabbi Itchel Krasnjansky
Chabad of Hawaii
Yonatan got me a great mortgage after everyone else told me it wasn't possible. More important, these guys are here to be of service to Shluchim and they know the way it really is for us.

Rabbi Dovid Eliezrie
Chabad of North Orange County, CA
Yonatan of Shluchim Funding is a true partner to Shluchim. He was a crucial help to our Moisad and he can help you!

Rabbi Yosef Konikov
Chabad of South Orlando, FL
Yonatan helped me get my financials in order for the bank to approve me more easily. Shluchim Funding is a valuable resource committed to helping Chabad.

Rabbi Nechemia Schusterman
Chabad of Peabody, MA
Yonatan helped me with incredible patience, insuring we were easily approved. They are experts in the field of nonprofit financing and they know the inner workings of Chabad Houses.

Rabbi Berel Levertov
Chabad of Santa Fe, N.M.
Yonatan helped steer me thru a complicated construction loan and made it easy. I heartily recommend Shluchim Funding; it’s clear that their purpose is to help Shluchim.

Rabbi Shimon Raichik
Congregation Levi Yitzchak, CA
Yonatan recently got our Chabad House mortgage approved at a very low rate and I assure you it wasn't easy! I recommend Shluchim Funding.

Rabbi Dovid Eliezrie
Chabad of North Orange County, CA
Yonatan of Shluchim Funding is a true partner to Shluchim. He was a crucial help to our Moisad and he can help you!