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To:
Minister of Interior
Arhey Deri
Ministry of Interior
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By fax

Urgent!

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شارع أبو عبيده ٤
القدس ٩٧٢٠٠
هاتف. ٦٢٨٣٥٥٥. ٠٢.
فاكس. ٦٢٧٦٣١٧. ٠٢.

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Dear Sir,

Re: **Halting of process for revocation of Israeli permanent residency permits**

Dwyat, ID. No.

Abu Kaf, ID. No.

Atrash, ID. No.

Abu Ghanem, ID. No.

1. On behalf of our clients, residents of East Jerusalem, whose specifics are provided in the reference line, and who are the subject of permanent residency revocation procedures launched by the previous Minister of Interior, I hereby request that you halt proceedings for status revocation, i.e. revocation of permanent status.
2. My clients have recently been charged for their alleged involvement in security incidents. Criminal proceedings against them are pending before the Jerusalem District Court. So long as criminal proceedings are pending, my clients, like everyone else in the country, are entitled to the presumption of innocence. Unfortunately, as detailed below, this is not where things stand.
3. Following the decision of the Israeli Government's Ministerial Committee for National Security dated 14 October 2015, former Minister of Interior Silvan Shalom launched proceedings for the revocation of my clients' permanent residency status, pursuant to Sec. 11(a) of the Entry into Israel Law 5712-1952. Letters to that effect have been sent to my clients. The decision to launch residency revocation proceedings was based on the alleged offenses against security attributed to my clients, on which, as stated, the court has yet to issue judgment. The Minister of Interior added in his letters that my clients had committed acts that clearly constituted a breach of allegiance to the State of Israel.
4. On December 15, 2015, the Minister of Interior at the time received the hearings in writing against the plan to revoke my clients' residency. On December 24, 2015, following our demand, oral hearings were held for Mr.

Dwayat, Mr. Abu Kaf and Mr. Atrash. The oral hearing in Mr. Abu Ghanem's case is scheduled for today, January 14, 2016.

5. It is important to note that a petition challenging the competency of the Minister of Interior to revoke the status of East Jerusalem residents pursuant to Sec. 11(a) of the Entry into Israel Law 5712-1952 for breach of allegiance is currently pending before the Supreme Court (HCJ 7803/06 **Abu 'Arafah v. Minister of Interior** (hereinafter: **Abu 'Arafah**)). The Supreme Court has issued an order nisi in this matter and the petition is being heard by an extended panel. **The judgment that will be issued in Abu 'Arafah will directly impact on the matter herein, and therefore, proceedings against my clients should be halted until the general issue of competency is determined.**

Before you proceed to make a decision in my clients' matter, we feel it appropriate to present you with our principled position against the proceedings to revoke my clients' permanent residency status:

- a. **First**, my clients' status as East Jerusalem residents was acquired by birth rather than relocation. The State of Israel granted East Jerusalem residents permanent residency status, knowing that they were part of a hostile population, subjects of an enemy state. Therefore, **our position is that inasmuch as East Jerusalem residents are concerned, a duty of allegiance never formed a condition for the grant of status.**
- b. **Second**, under Sec. 11a of the Citizenship Law 5712-1952, if the revocation of Israeli citizenship leaves the person affected stateless, a permit for permanent residency in Israel must be granted. In other words, **a citizen who breaches allegiance to the country is still entitled to permanent residency in Israel.** This determination **highlights the fact that residency status does not entail a duty of allegiance to the country.**
- c. **Third**, the Minister of Interior does not have the power to revoke East Jerusalem residents' permanent residency permits, **certainly** not pursuant to Sec 11(1)(2) of the Entry into Israel Law. This is so as the power in question is extremely broad, yet no guidelines and criteria have been put in place for exercising it, nor have conditions been set forward for its evocation.

On this issue, it is important to note that MK Hazan has submitted a private-member bill to the Knesset Chair, for the amendment of the Entry into Israel Law (Revocation of Residency of Persons who Breached Allegiance to the State of Israel or Their Family Members) 5776-2016. The bill seeks to add a subsection to Sec. 11 that would grant the Minister of Interior the power to revoke the permanent residency of a person **convicted** of an act that entails a breach of allegiance to the country. **This too clearly highlights the Minister of Interior's lack of competency to revoke the status of East Jerusalem residents due to breach of allegiance to the country subject to Sec. 11(a)(2) of the Entry into Israel Law.**

- d. **Fourth**, the obvious purposive interpretation of Sec. 11(a)(2) of the Entry into Israel Law, both given the legislative history of the section and the rules of Israel law, including the principles of separation of powers and fundamental rights, is that the minister's power to revoke permanent residency permits is limited to cases clearly defined in law or in the Entry

into Israel Regulations: including breach of an express condition for receipt of the permit, which was established and enunciated in the permit to begin with, or permanent relocation to another country.

6. Even if we presume for a moment that the Minister of Interior does have the power to revoke my clients' permits for permanent residency in Israel, **now is not the time to use that power**. Criminal proceedings against my clients are still pending before the court, and they have not yet been convicted of any offense. Launching administrative proceedings to revoke their status even as criminal proceedings against them are taking place, severely violates their right to a fair trial and the presumption of innocence.
7. Add to that, in my clients' specific case, and in particular Dwayat, Atrash and Abu Kaf, who, even if ultimately convicted at trial, will have been convicted of manslaughter, **the fact that these are not such exceptional and extreme cases that justify the grievous extreme measure** of revoking permits for permanent residency, which would leave two of them, Mr. Abu Kaf and Mr. Dwayat, stateless.
8. In light of the aforesaid, and given your taking office as Minister of Interior, we ask that you consider your final decision on the revocation of my clients' status carefully and with an open mind. We also ask that you halt proceedings for the revocation of my clients' status, pending a decision in **Abu 'Arafah**, which, as stated, addresses the general issue of the Minister of Interior's powers to revoke the Israeli status of East Jerusalem residents.
9. As another alternative, and given the grave harm to my clients' fundamental rights, we ask that you hold off your decision with respect to their status revocation pending the decision of the District Court in the criminal proceedings against them, that is, until such time as they are proven guilty.
10. We appreciate your prompt response.

Sincerely,

Abir Joubran-Dakwar, Adv.