

# AT RISK

## Under Construction

By John Breese, Senior Vice-President and Partner of F.C. Maltman and Company Limited.

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Each year surveyors routinely perform thousands of surveys on buildings under construction. It is not unusual for the final survey to be done when only the foundation of a structure is in the ground and under normal circumstances this process works fairly well. In some cases, however, it does not. With land prices at a premium, many municipalities allow structures to be built with zero or very minor side yard set backs. In well-regulated situations, this is usually not a problem. However, in times of cut backs and in areas where inspections are more limited, a surveyor has to be careful how structures are identified on the survey, so that someone relying on the survey in a future conveyance is not misled. If a survey is done and the structure is under construction, it should be clearly identified as “under construction.”

A surveyor should never describe a

structure so as to imply that the survey was done after the building was finished if, in fact, it was not. For example, we had a situation where a surveyor noted on his survey that a particular building was a one storey aluminium and brick house. This particular house was on a narrow lot, with a one foot side yard. The builder was given clearance to build a particular house on this lot as long as there were no encroachments.

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Unfortunately, the roof line design was changed during construction from a steep pitched roof to a cheaper shallower

pitched roof and, as a result, the eaves encroached onto the next lot. Also, a garage was later added, which also encroached onto the adjacent property. None of these problems were disclosed to the purchaser by the builder, who went bankrupt shortly afterward.

The purchaser relied on the survey done at the foundation stage and was unaware of the problems until he tried to sell the house a few years later and a new survey revealed the problems. The new purchaser refused to complete the sale and the original purchaser had to incur considerable expense to correct the problem. The owner sued the surveyor on the basis that his survey implied that it had been done after completion of the house and not during construction. Had the surveyor properly labelled this building as being “under construction,” he could have avoided this claim.

