

THE ALS GROUP

Managing Risk to Influence Successful Outcomes

Urban Construction: Managing Risk Beyond the Property Line

Key Takeaways

- On an urban site, the risk doesn't stop at the property line. Excavation and vibration can affect the buildings next door, and those neighbors are part of your project's risk.
- Shoring plans, monitoring and stop-work limits only protect people if they're in place in the field, someone is reading them, and someone has the authority to stop the job.
- Before excavation starts, confirm your contracts and insurance actually respond to damage to neighboring property and injuries to the people inside it.

It's been a week since the building collapse in Brooklyn on November 11 that killed eight people, including two children and two construction workers, and injured 18 others. Our thoughts are with the victims, their families and everyone affected.

A three-story building, nearly a century old, fell into the excavation site next door. The cause is still under investigation, and no link between the construction and the collapse has been established. But the Engineering News-Record's reporting raises questions every owner, developer and contractor working in a dense city should be asking about their own projects.

1. On an urban site, the risk doesn't stop at the property line

Digging next to an existing building changes the ground that building stands on. Excavation, vibration and dewatering can all affect structures you don't own and can't fully inspect.

Older buildings add uncertainty. In Brooklyn, the required preconstruction survey recorded visible cracking on the neighboring building and rated one facade in "Poor" condition. It also noted that details about the building's foundation had not been provided. That's common: many neighboring buildings have no reliable drawings at all.

City records show the collapsed building, built in 1930, had accumulated 98 housing violations since 1972, including 11 in the past year. The condition of the building next door is part of your project's risk. Before excavation starts, review the neighbor's public records alongside the preconstruction survey, and plan the support of excavation around what you find.

Your neighbors are part of your project's risk, whether they signed anything or not.

2. Safeguards only work if they exist in the field

According to ENR, the approved plans called for underpinning along the property line, weekly optical surveys, crack gauges, vibration monitors and clear limits: notify the team at 1/4 inch of movement, stop work at 1/2 inch.

That's a sound plan. What isn't yet clear is whether those protections were in place as designed, and what the latest readings showed. A plan in the drawings isn't protection. Protection is what's installed, measured and acted on in the field.

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On every project with adjacent structures, ask:

- **Is it installed?** Is the underpinning and shoring in place before excavation reaches it?
- **Is anyone reading it?** Who reviews the monitoring data, and how often?
- **Who can stop the job?** Does someone have clear authority to stop work when a limit is hit, without waiting for approval?
- **Is it certified?** Are required special inspections completed and documented as the work goes, not after?

3. Warning signs from the neighbors deserve a response

Residents of the collapsed building told reporters they had felt shaking and heavy impacts while work was underway next door. A week later, a former tenant filed a lawsuit alleging he photographed cracks near the building's entrance in October and sent them to his landlord, and that his concerns were dismissed. These are allegations, not findings. But they show how often neighbors notice problems first, and how a report that goes nowhere can become the center of a claim.

Every project next to occupied buildings needs a simple way for neighbors to report concerns, a log of those reports, and a person responsible for following up, checking the monitoring and escalating when something doesn't look right.

4. Contracts decide who carries the risk to the property next door

When a neighboring building is damaged or people are hurt, the claims reach the owner, the developer, the contractor, the excavation subcontractor and the engineers. The contracts decide who pays first:

- **Indemnity:** Do your contracts clearly assign responsibility for damage to adjacent property and injuries to third parties?
- **Additional insured status:** Are you an additional insured on the policies of the contractors doing the excavation and shoring work?
- **Subcontractor insurance:** Do the firms doing the riskiest work carry limits that match the risk, and have you checked their certificates and endorsements?
- **Licensing and agreements with neighbors:** Are access, underpinning and monitoring agreements with adjacent owners in place and documented?

That's already happening. The first lawsuit names the landlord and construction companies connected to both properties, and asks for rent reimbursement, replacement housing and compensation for belongings lost in the collapse. One tenant valued his personal property alone at more than $100,000. Claims like these reach both sides of the property line, and they add up quickly.

5. Make sure the insurance actually responds

Some contractor liability policies limit or exclude coverage for subsidence, earth movement or underpinning work. If those exclusions sit in the policy of the firm doing the excavation, the protection you were counting on may not be there.

Before excavation starts, read the general liability, umbrella, owners and contractors protective, builder's risk and professional liability policies together. Ask whether limits are sized for a catastrophic loss involving multiple deaths and injuries, not a routine claim. The time to find out what your policy excludes is before the first bucket of dirt comes out.



How ALS Helps

We work on the owner's side of the table, with no insurance to sell. Before a shovel goes in the ground, we review the contracts, indemnities and insurance requirements that decide who pays if a neighboring building is damaged, and we read the policies themselves for exclusions that could leave you exposed. Through our vendor insurance compliance program, we confirm that the contractors doing the riskiest work actually carry the coverage your contracts require.

If you need more information on any of the topics covered here, or are interested in a Risk Management Assessment ("RMA") for your project, please contact our Managing Principal, Albert Sica, at asica@thealsgroup.com or at 732.395.4251.

Frequently Asked Questions

Who is responsible when construction damages a neighboring building? It depends on the facts and the contracts. Owners, developers, contractors, excavation subcontractors and engineers can all face claims. Indemnity and insurance provisions decide who pays first, so they need to be clear before work starts.

What is a preconstruction survey? It's a documented inspection of neighboring buildings before work begins, recording existing cracks and conditions. It protects everyone by showing what changed during construction, and many cities, including New York, require one for excavation near adjacent buildings.

Does general liability insurance cover damage to adjacent property from excavation? Not always. Some contractor policies limit or exclude coverage for subsidence, earth movement or underpinning work. Check the actual policy language for every firm doing excavation, not just the certificate.

What should owners require from contractors working next to occupied buildings? A monitoring plan with clear stop-work limits, a named person with authority to stop the job, documented special inspections, a way for neighbors to report concerns, and insurance limits sized for a serious loss.

How can The ALS Group help with construction risk? We review your project's contracts, insurance program and contractor compliance together, find the gaps before work begins, and help you close them with your broker and project team. We act as your outsourced risk manager for the life of the project.