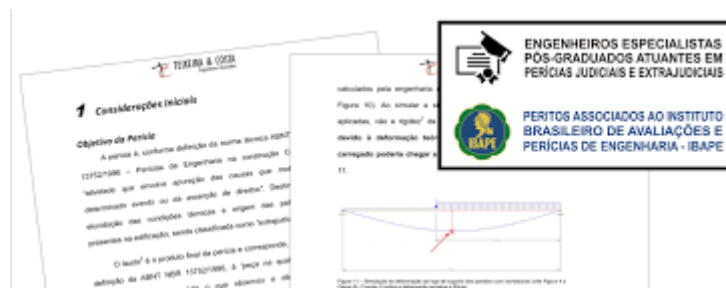


Extrajudicial Report



Real estate growth in cities has led to the replacement of old properties by new buildings, leading to constructions with deep foundations and excavations for basement construction.

In the event of damage, the builder/developer or owner of the work is responsible for repairing the pathologies or anomalies caused to neighboring properties (adjacent) to the work, as provided for in current legislation. Another point to highlight is when the work is close to completion, or even already finished, complaints from neighbors arise about damage of "dubious" origin, in buildings that have been shaken or worn out by time, causing an impasse between the builder and the neighbor, with as an epilogue the judiciary.

Prevention methods

Prevention and precautions must be carried out, a precautionary inspection (neighborhood report) is recommended, the basis of which is **NBR 12.722/92**, in the period prior to the completion of new work of any size, that is, even before the construction stages. demolitions, earthmoving and foundations.

What is the objective of the Verification Inspection Report?

It aims to identify pre-existing damage to neighboring (adjacent) properties, in relation to new building work, or even renovation work to be erected, regardless of its size, whose careful and prior action provides security to the builder and/or developer, but mainly for the owners of the buildings neighboring the work, with regard to possible controversies regarding the true and real origins of the anomalies or pathologies.

One of the focuses of this inspection is to avoid costly lawsuits, since the inspection, in the event of a disagreement regarding the condition of the property, can guarantee the property owner and the builder/developer an impartial and fair repair for the damage caused by the execution of the work or renovation.

Inspections can be carried out in two ways:

- a) **Judicial:** the most common results from the proposed action, being determined ex officio or at the request of one or both parties, with an expert appointed by the judge. Or one could say that it is the act by which the judge, through the intermediary of the expert, visually certifies the disputed facts. This precautionary process will serve as evidence in the event of future compensation action.

b) Extrajudicial: the parties use technicians extrajudicially to illustrate the facts of the case (pathologies and/or anomalies existing in the properties), either for the purpose of better certifying, clarifying or interpreting them, through a written opinion, in two copies and initialed by the parties involved (construction company and landowners), proving acceptance of the facts reported in the technical opinion.

There is also another extrajudicial way of carrying out such inspections, but with legal value: the arbitration precautionary inspection, in which the parties, by mutual agreement, look for a recognized arbitration chamber and, by consensus, indicate an expert who is a member of a list of referees from the engineering area, to carry out the precautionary inspection.

In these cases, the technician works as an assistant or consultant to the party and his opinion is equivalent to that of an expert opinion and is similar to the opinion issued by the legal advisor on legal issues that may be discussed in the process. It is the proof that is carried out outside the court.

In relation to the advantages between judicial and extrajudicial precautionary inspection, there are:

- In the extrajudicial report, the person interested in the inspection report spends only on hiring the expert. In the judicial process, the interested party spends on an expert, technical assistant, legal costs and a lawyer, expenses that they were often not prepared for and which, therefore, they consider unfair.
- In court reports, it can cause discomfort to neighbors at the construction site when they are summoned to face legal proceedings. Although this process is merely observational, lay people do not look favorably on legal actions, in which they may be exposed.
- Any delay in the Judiciary's assessment of the dispute may cause a delay in the work schedule due to the delay in the judicial inspection, meaning that, in many cases, the inspection is carried out after earth moving and the completion of the foundations, thus compromising , the intended proof.
- The extrajudicial report brings an improvement in interpersonal relationships, as it shows the respect and care that the builder/developer of the work has for neighboring and/or neighboring buildings.

In this inspection, it will be up to the service contractor to determine the properties that will be subject to inspection, making prior contact with their occupants. The inspection's main objective will be to examine the physical characteristics to fit the construction standard, typology, state of conservation, age of the property, in addition to identifying the existence of flaws and damage in the building under analysis. The property must be inspected as a whole: facades (front, back and sides), internal and external environments, roof, wall, etc.

The identification of apparent failures and damages will be done through:

- Technical verification of existing faults and damages in the inspected building, through visual inspection, with photographic record of the damage;

- Note and location of technical photographic records of faults and damages identified in the building, through a sketch of the building; • Warning report in the event of visual observation of structural damage concerning the solidity and safety of the building;
- Description of the state of conservation of the elements inspected, such as the existence of fissures, splits, differential settlement of the foundation, points of humidity, subsidence of the floor, exposed reinforcement, type of roof, linings, coatings, painting, floors, framing, description of hydraulic and electrical installations and others

One of the important points of the inspection, to reduce the chances of errors, deviations and non-conformities, helping and certifying the quality of services before any problems occur after the completion of the works, combined with the report described, is the photographic report. This has been increasingly used in neighborhood inspection reports; however, you need to know how to prepare them and how to combine images and technical information in a balanced and coherent way.

If the inspection is prevented, the service contractor must:

Send correspondence and/or notification under protocol, recording the attempt to carry out an inspection;

File a judicial or extrajudicial action for a precautionary inspection in anticipation of evidence.

Registration of the report at a notary's office is not mandatory, but it is a practice followed by construction companies, making the date of its execution official.

It is important that those responsible for the work periodically monitor the stability conditions and pathologies in neighboring properties, during the course of the new work, enabling the adoption of corrective and preventive measures.