

## Q&A From the Bais HaVaad Halacha Hotline

On the Fence

Rav Aryeh Finkel

October 28, 2021

**Q** I hired a contractor to add a deck to my house. The workers have completed the deck surface and are ready to install the railing. Should I make the *bracha* of *la'asos ma'akeh* before they begin?

**A** Like most mitzvos, that of erecting a *ma'akeh* (fence) requires a *bracha*. Although some *Rishonim* maintain that *ma'akeh* requires no *bracha* because it has an associated mitzvas *lo sa'aseh*, the accepted view is that of the Rambam (*Hilchos Brachos* 11) that a *bracha* is recited (R' Akiva Eiger on Shulchan Aruch C.M. 427). The wording of the *bracha* is "*asher kideshanu...la'asos ma'akeh*."



If the fence is constructed by someone other than the homeowner, the builder makes the *bracha*, because he is the one performing the mitzvah. In that case, the text of the *bracha* is "*asher kideshanu...al asiyas ma'akeh*." Obviously, this applies only if the worker is Jewish; if he isn't, some *Acharonim* rule that the homeowner recites the *bracha*, because by paying the worker for his labor it is like he constructed the fence himself (*Machanei Efrayim Hilchos Shlichus* 11). But this notion is a matter of great controversy among the *Acharonim*. The *poskim* therefore advise that the homeowner physically complete the construction by drilling in the final screw, before which he should recite the *bracha*.

Whether a deck is even subject to *ma'akeh* is a matter of debate: The Chazon Ish writes that a porch is not required to be surrounded with a *ma'akeh* because the *pasuk* restricts the mitzvah to a roof, which means a surface atop a dwelling (C.M. Likutim 18:6; see there for a more detailed explanation). But others, including the Steipler Gaon in a responsum, maintain that any raised surface that is frequently used, similar to the flat roof of a home, is included in the mitzvah. In practice, you should construct a *ma'akeh* for a deck or porch, but with regard to making a *bracha*, ask your *rav* or follow your minhag.