



NATIONAL CONSTRUCTION DEFECT CONFERENCE



The Roosevelt New Orleans | November 13-14-2025

Jurisdictional Analysis and Future Outlook of Nationwide Industry Trends



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Macroeconomic Trends

11/13/2025

Macroeconomic Trends



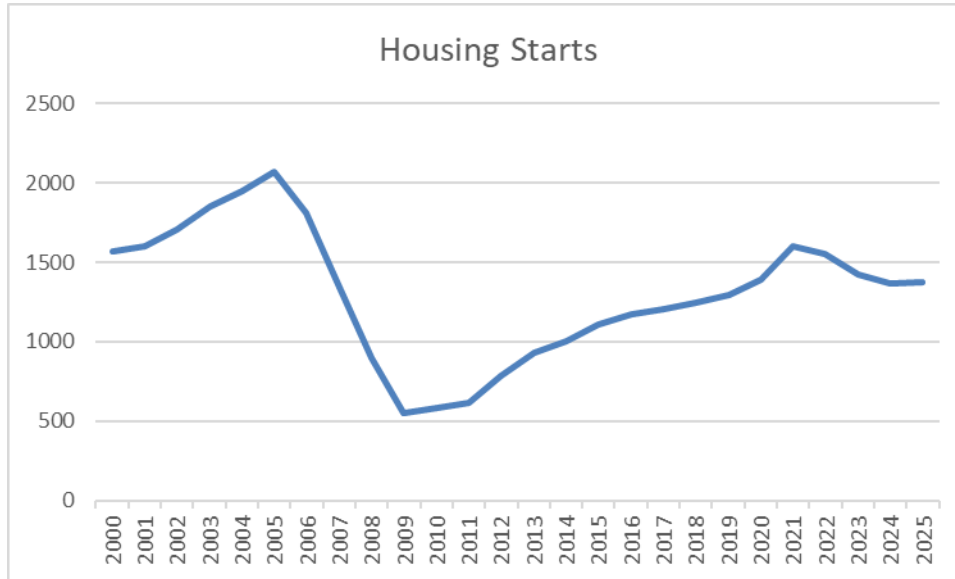
- Economic data impacting Construction Defect.
- Predictors of what is to come in Construction Defect.



Housing Starts – U.S. Total

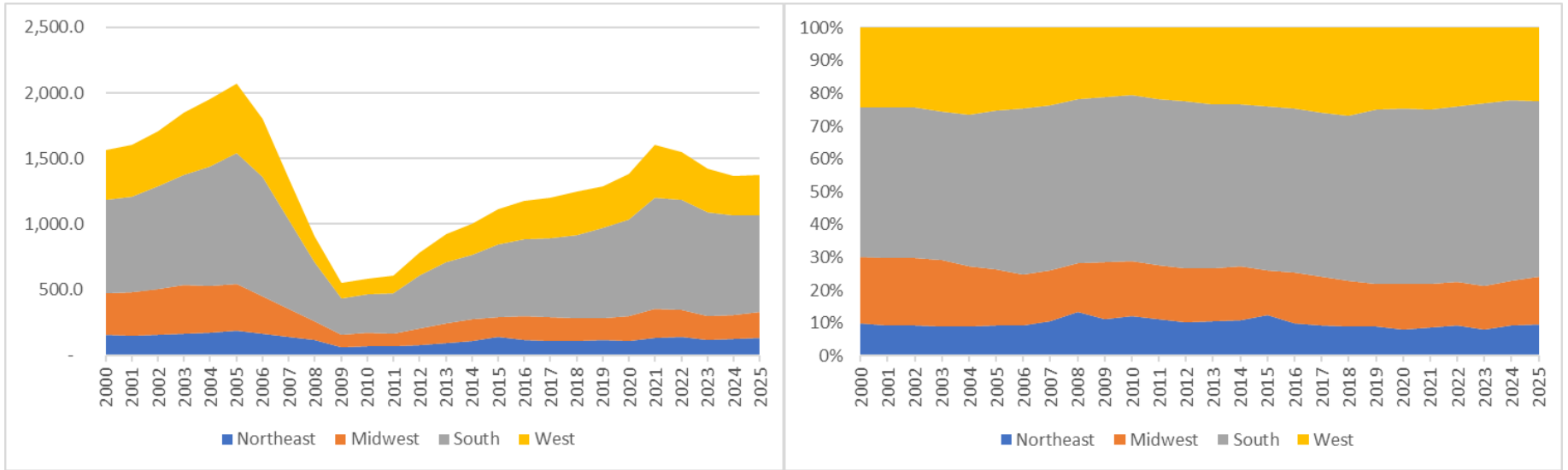


In Thousands



Data Source: U.S. Census Bureau
Chart: The RiverStone Group

Housing Starts by Region

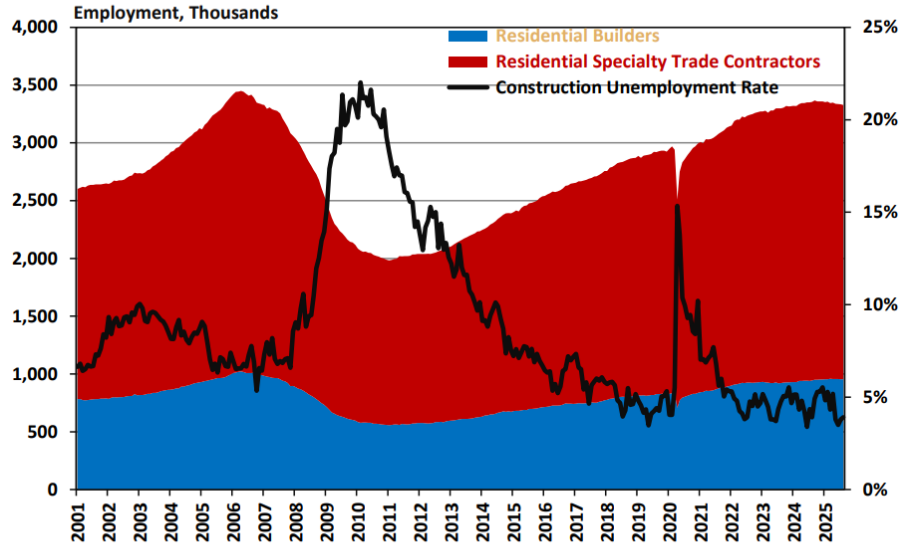


Regional Housing Starts
 Data Source: U.S. Census Bureau
 Chart: The RiverStone Group

Residential Construction Employment & Unemployment



Residential Construction Employment and Unemployment Rate



Source: Bureau of Labor Statistics.



Residential Construction Employment and Unemployment Rate

Data Source: U.S. Bureau of Labor Statistics

Chart Source: Home Builders Institute – The HBI Construction Labor Market Report, June 2025

30 Year Mortgage Rates



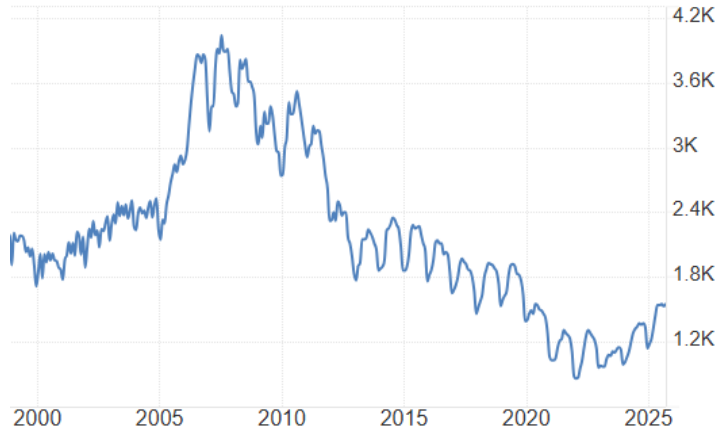
30 Year Mortgage Rates

Data Source: Freddie Mac via St. Louis Federal Reserve Bank
Chart: The RiverStone Group

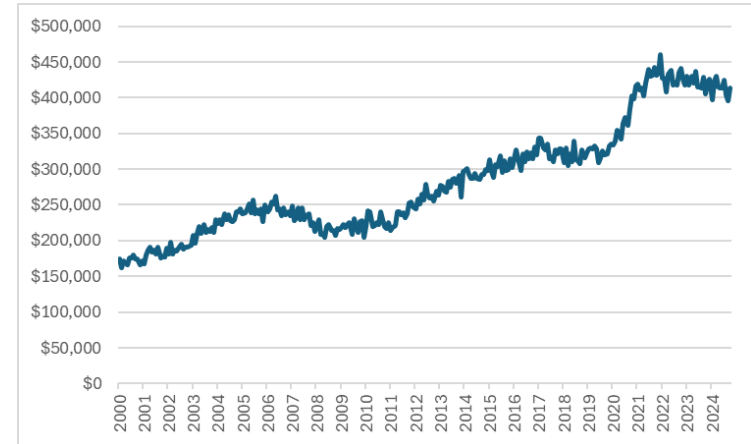
Housing Inventory & Average Home Price



Housing Inventory



Average SFH Price



25 Year Housing Inventory & 25 Year Average Home Price

Data Source: US Census Bureau
Chart 1: tradingeconomics.com
Chart 2: The RiverStone Group

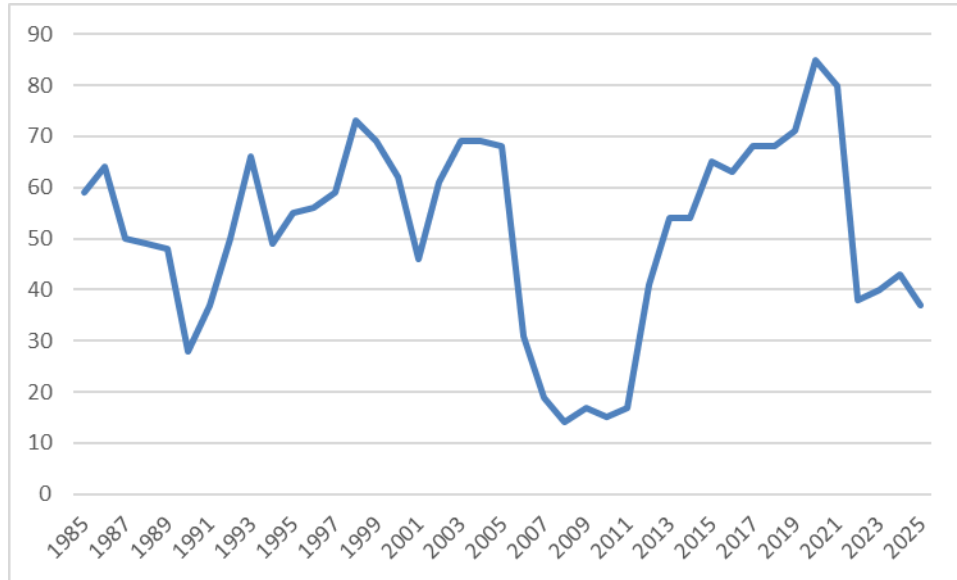
PPI – Building Materials and Supplies Dealers



Producer Price Index – Building Materials and Supplies Dealers

Data Source: U.S. Bureau of Labor Statistics
Chart Source: St. Louis Federal Reserve Bank

NAHB/Wells Fargo Housing Market Index



The NAHB/Wells Fargo Housing Market Index (HMI) gauges and tracks the pulse of the single-family housing market based on a monthly survey of single-family builders who are asked to rate three specific conditions of the housing market:

- Present sales of new single-family homes
- Expected sales of single-family homes for the next six months
- Traffic of prospective buyers of new single-family homes

Housing Market Index
Data Source: National Association of Home Builders
Chart: The RiverStone Group



Tariff Impacts on Construction Materials

The materials impacted the most from tariffs are made from steel and aluminum, including reinforcing steel used in concrete, structural steel used in the building frame, aluminum curtainwall and window wall systems used in the building envelope, piping and ductwork used in mechanical and electrical systems.

- Overall construction input prices are 1.3% higher than a year ago, while nonresidential construction input prices are 1.6% higher. Steel prices have increased 15% to 25% since the beginning of January and aluminum is also up 8% to 10% from the beginning of January.
- With economy-wide improvements in inflation and anticipated rate cuts, Contractors remain relatively optimistic about their profit margins, according to an Associated Builders and Contractors Confidence Index.



Supply Chain-Driven Threats to Contractors/Projects



- **Supply chain disruption can be driven by:**
 - Natural Disasters
 - Geopolitical Events
 - Tariffs
- **Effects on projects:**
 - Permitting Delays
 - Subcontractor Availability/Timing
 - “Bad Actors” in the supply chain (poorly sourced materials)
- **Strategies that are being employed to help navigate:**
 - Stock-piling materials
 - Strategic relationships
 - Joint Ventures
 - Technology (real time data on suppliers, etc.)



Impact of Inflation on Construction Defect Litigation

- Proving damages involves construction experts preparing cost of repair estimates.
- Most construction defect cases can take more than one year to resolve. It is not uncommon for litigation to last 3 years or longer.
- Depending on when the cost of repair estimates are prepared, they can quickly become obsolete with the passage of time due to inflation, supply chain issues, increased material and labor costs.



Cost of repair estimates may increase and need to be updated before settlement negotiations, arbitration or trials commence.

Repurposing Office Space: Office-to-Residential Conversions

- Due to the increase of work from home policies, there is a surplus of office space. Many cities are in a housing crisis while large, commercial buildings are sitting empty.
- Rezoning is necessary to change the classification of a property, or area within the city, from office to residential.
- Converting office buildings into residences requires upgrades to utilities, such as water, electricity, and sewage systems. In most office buildings, the MEP placements are usually run in columns straight through the building. Residential buildings need MEP placements throughout each floor.
- Despite innovation, traditional coverage issues remain in play.



Office to Residential Construction with Demolition of Office Buildings

- Bishop Ranch was once a thriving office hub in San Ramon, part of San Francisco's Bay Area.
- That changed with COVID, as remote work became the norm and key tenants like Chevron moved out.
- KB Home has purchased a vacant building on the site for \$58 million with plans to demolish it and replace it with 100 new homes.



Solar Roof Panels

- Solar projects bring mix of traditional coverage issues relating to installation, as well as new exposures as a result of the product itself.
- WRAP issues/risk transfer
- Spike of construction defect claims related to installation
- Hybrid cases with issues regarding production of energy claims
- Commercial applications carry risks of loss of income or other misrepresentation claims



New Building Technologies

Emerging Construction Technologies

Innovation is driving productivity and reducing costs:

- **3-D Printing:** Used for rapid prototyping and constructing custom designs.
- **Modular Construction and Prefabrication:** Modular components are gaining traction in residential and commercial projects.
- **AR/VR:** Virtual tools for design previews and workforce training.
- **Robotics and AI:** Replacing human workers



Robotics and Artificial Intelligence

- Pulte Group's pilot of HadrianX system: AI-guided construction robot.
- The automated system uses an advanced robotic arm to place concrete blocks, which are then secured using a specialized adhesive that bonds twice as strong as traditional mortar.
- Pulte claims that use of robots addresses labor shortages, improves safety, minimizes waste and accelerates build times.



The Future: Robots Used to Paint, Finish Drywall and ???

- Netflix House is a 100,000 sf project featuring themed dining and retail connected to popular Netflix shows. Three locations are scheduled to open in the U.S. in the next two years.
- [Okibo](#), a robotic-tools company has designed the robots being used by U.S.-based [Performance Contracting, Inc. \(PCI\)](#) on the Netflix House projects.
- The robots perform repetitive overhead work, eliminating the need for a lift or scaffold for work up to 12 feet above ground. Finish crews report a significant reduction in physical burnout and fatigue with obviously less workers.
- Okibo reports a 5x increase in productivity for Level 4 and Level 5 sanding jobs while meeting quality standards.



Western Region Update

Elaine K. Fresch, Esq.

Western Region Update

IS IT ALL QUIET ON THE WESTERN FRONT?

NEVADA

ATTEMPT TO REFORM CONSTRUCTIONAL DEFECT LAW UNDER N.R.S. CHAPTER 40 DURING 83RD LEGISLATIVE SESSION

- ❑ WOULD HAVE REQUIRED WRITTEN RESPONSE TO INCLUDE A CONTRACTOR'S ELECTION TO MEDIATE OR WAIVE IT PRE LITIGATION
- ❑ WOULD HAVE MANDATED INSURANCE COVERAGE FOR CONTRACTORS, SUBCONTRACTORS, SUPPLIERS AND DESIGN PROFESSIONALS FOR LIABILITY RELATED TO CONSTRUCTIONAL DEFECTS
- ❑ PURPORTEDLY CLARIFIED RECOVERABLE DAMAGES AND BROADENED DEFINITION OF "CONSTRUCTIONAL" DEFECT

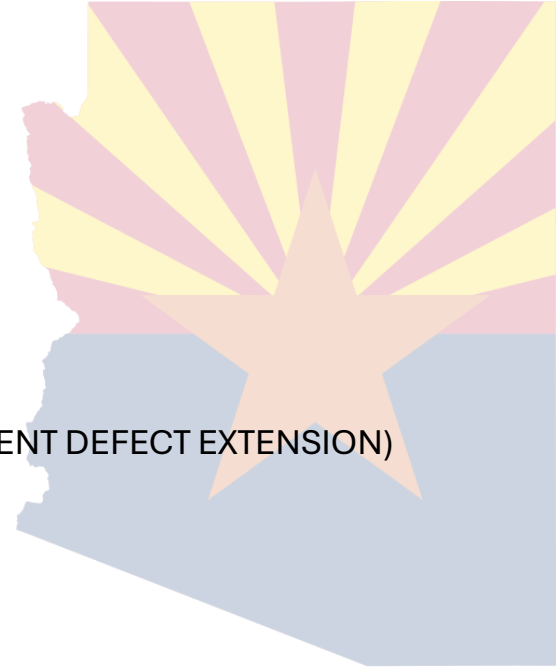
Western Region Update

IS IT ALL QUIET ON THE WESTERN FRONT?

ARIZONA

LEGISLATIVE CHANGES?

- ❑ SB 1641 WAS PROPOSED BUT WAS NOT PASSED.
- ❑ STATUTE OF REPOSE REDUCED: 8-4 YEARS (+2 YEAR LATENT DEFECT EXTENSION)
- ❑ HOA LITIGATION REQUIRES 2/3 VOTE



Western Region Update

IS IT ALL QUIET ON THE WESTERN FRONT?

ARIZONA

CASE LAW

Pointe 16 Community Association v GTIS-HOV Pointe 16, LLC (9/4/25)

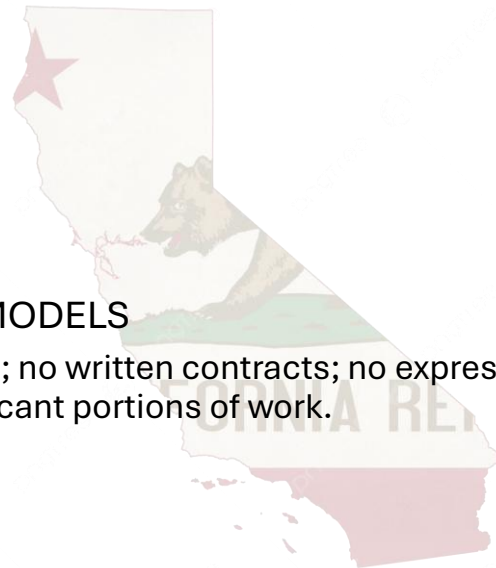
- ❑ Arizona Supreme Court clarifies owners in a townhome community can assign their claims for construction defects/implied warranty to the HOA to pursue against the Developer and Builder.
 - ✓ The Court distinguished the anti – assignment clause in the owners’ purchase agreement as intending to prevent assignment to change who the developer was obligated to perform for during escrow, not to block assignment of claims for damages after a breach of warranty.
 - ✓ Impact: Allows HOA’s to pursue individual owner claims

Western Region Update

IS IT ALL QUIET ON THE WESTERN FRONT?

CALIFORNIA

- ❑ NO SIGNIFICANT CASE LAW OR LEGISLATION IN 2025
- ❑ INCREASE OF LAWSUITS BY RESIDENTIAL OWNERS FOR REMODELS
 - ✓ Challenges defending these claims: unlicensed subcontractors; no written contracts; no express indemnity or risk transfer obligations; GC self performing significant portions of work.
- ❑ SOUTHERN CALIFORNIA JANUARY FIRE IMPACT
 - ✓ Potential legislation on fire resistant construction materials
 - ✓ Lawsuits regarding negligence leading to fire spread and buildings burning down



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TEXAS UPDATE

Cynthia Pertile Tarle, Esq.

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Texas

- ▶ 254 Counties in 1 State
- ▶ Culturally diverse
- ▶ Physically diverse
- ▶ Politically diverse
- ▶ Socioeconomic considerations
- ▶ School Districts
- ▶ Judicial Hellholes



Shortened Statutes of Repose

Residential

- HB 2024, effective June 9, 2023.
- Applies to detached one-and-two family homes & townhomes.
- Shortened from 10 to 6 years, if certain warranty conditions met:
 - 1 year warranty for workmanship and materials
 - 2 years for plumbing, electrical, heating & air conditioning systems
 - 6 years for “major structural components”

Governmental/Public

- Effective June 14, 2021.
- Schools are not an exception.
- Shortened from 10 to 8 years.
- Exceptions, which still have 10 year:
 - TxDOT Contracts
 - Civil Works – roads, bridges, utilities, water supply, wastewater conveyance facilities, etc.

Tolling of Limitations

Texas Court of Appeals; *Morningside Ministries v. Koontz McCombs Construction, Ltd.* (2025 TX App. Lexis 3584).

Plaintiff's construction defect claims could be considered "inherently undiscoverable," tolling limitations period.

Claimants may argue delayed discovery.

Defendants must carefully analyze when defects were or should have been discovered.

Discovery Rule alive and well in Texas CD.

Nuclear Verdict Leader

- ▶ Texas led nation with 23 nuclear verdicts in 2024.
- ▶ Houston and Dallas Metroplex most prevalent jurisdictions.
- ▶ Texas legislature attempted to pass Senate Bill 30 (2025)
 - Tort reform measure aimed at curbing nuclear verdicts;
 - Proposed aggressive damage-caps & evidentiary reforms;
 - Bill failed to pass;
 - Next regular legislative session January 2027.
- ▶ Premises liability, product liability and large infrastructure/industrial claims overlap with construction-defect exposures.
- ▶ Sheer magnitude and frequency of large awards may affect insurance premiums, defense budgets, settlement strategy, contract risk allocation, and venue selection.
- ▶ High prevalence of large verdicts means venue risk (choosing judge/county) is meaningful.

Impact of Judges

- ▶ Texas Supreme Court and Court of Appeals
 - Partisan election
 - 6-year term; Vacancies appointed by Governor
- ▶ District Court
 - Partisan election
 - 4-year term; Vacancies appointed by Governor
- ▶ Can create party sweeps resulting in removal of highly experienced judges being replaced by judges with no experience.
- ▶ Rotating dockets which may prevent early identification of trial judge.
- ▶ Traveling judges may result in delayed hearings and inconsistent rulings.

Billion Dollar Data Centers

- ▷ Rise of AI, cloud computing, digitization of industries creating an explosive need for data centers.
- ▷ Abundant land, favorable regulatory environment, tax incentives, expansive electric grid capacity, and flexibility for massive power demands, all lead to the data center boom in Texas.
- ▷ As of September 2025, Texas has 279 data centers.
- ▷ Dallas-Fort Worth metroplex has 141 of these facilities.
- ▷ Spend per data center is **B**illions, not millions.
- ▷ Construction defect exposures include HVAC, moisture, electrical fires and equipment damage.



Data Centers Texas for 2025

- ▶ OpenAI Stargate Campus, Abilene, TX –estimated \$100 billion
- ▶ Tract Caldwell County Park, Caldwell, TX – estimated \$4.2 billion
- ▶ Frontier (Vantage DC), Shackelford County, TX – estimated \$25 billion
- ▶ PowerHouse and Provident Hyperscale Data Center Campus, DFW
- ▶ Data City, Texas, Laredo, TX
- ▶ Advanced Energy and Intelligence Campus Amarillo, TX
- ▶ Another 6 data centers are already identified as upcoming in TX
- ▶ End of 2025, estimated 10% of Texas demand on main electrical grid
- ▶ Long-term concerns as to sustainability of TX grid under strain

3-D Printing

- Speed and scalability
- Affordability
- Resilience and sustainability
- Regulatory challenges
- Market segmentation
- Future potential
- Raising new product liability & workmanship issues with proprietary cement mixes.



Texas 3-D Printing Projects

Wolf Ranch – Georgetown
(near Austin)

- 100 single family homes; 1,574 to 2,112 sq feet

Wimberley Springs –
South of Austin

- 8 single family homes; 2,800 to 4,000 sq feet

Zuri Gardens – Southeast
Houston

- 80 single family homes; 1,360 sq feet

Round Top, Texas

- 1-2 bedroom single family homes; 400 to 900 sq ft

Marfa – West Texas

- 9 single family homes; 1,500 to 1,860 sq ft

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Trends and Case Law Updates

FLORIDA

SOUTH CAROLINA

Florida

- *Bandklayder Development, LLC v. Sabga*
- *Moss & Associates, LLC v. Daystar Peterson and Brickell Heights East Condominium Association, Inc.*

Bandklayder Development, LLC v. Sabga

- Breach of Contract claim, at trial plaintiff established damages but at the time of the report (nearly 5 years after the breach)
- 3D23-1906 (Fla. 3rd DCA Jan. 2, 2025) - holding damages must be at time of breach, not at time of litigation or trial.
- *Eloquence on the Bay Condominium Ass'n Inc. v. CDC Builders, Inc.*, 415 So. 3d 259 (Fla. 3d DCA 2025) - Damages should be measured at the time of the breach, not at the time of trial; not entitled to new trial on damages

Impact and Practicalities

- Negligence based claims
 - Associations have no contract with developer or general contractor
 - Turnover dates?
 - Covid Pricing?
- Single-Family Home Matters
 - Motion to Strike/Limine
 - Downstream claims

Moss & Associates, LLC v. Daystar Peterson and Brickell Heights East Condominium Association, Inc.

- Case No. 3d24-2118 (February 26, 2025) // 406 So.3d 344 (Fla. 2025)
- Fla. Stat. §558 Requirements Mandatory
- DCA overturned a district court's denial of a motion to abate the case to comply with the mandatory requirements.
- Under *Pardo v. State*, 596 So.2d 665 (1992) applies across Florida's trial courts

South Carolina

Vriens, individually, and on behalf of all other similarly situated v. Tip Top Roofing & Construction, LLC, D.R. Horton, Inc., et. al.

- Case No. 2:23-cv-06797-DCN (U.S. District Court for the District of South Carolina)
- Case brought by an individual homeowner, Michael Vriens concerning single-family home.
- DR Horton single-family homes in Coastal, South Carolina spanning over many counties located in a zone that could experience hurricane winds of 140 mph or greater.
- Plaintiff alleges that the roofing installed violated versions of the International Residential Building Codes (“IRC”).
- Lawsuit originally filed in State Court and removed to Federal Court as a class action. The number of affected homes is estimated to be over 11,000 or 12,000.

South Carolina

Vriens, individually, and on behalf of all other similarly situated v. Tip Top Roofing & Construction, LLC, D.R. Horton, Inc., et. al.

- Can one define the class?
- On May 2, 2025, Plaintiffs filed Motion for Class Certification. Must meet elements: numerosity, commonality, typicality, adequate representation, predominance and superiority.
- Issues with extrapolation to determine damages
- On September 4, 2025, court granted arbitration between DR Horton and direct purchases; and DR Horton and subcontractors.
- Practicalities:
 - Establishing damages
 - Defenses
 - Developments? Builder? Materials?