**Q:  I am a builder and developer of townhome communities across the country, including Atlanta.  Does the right-to-repair act framework apply to attached product?**

A: Yes, Georgia’s right-to-repair statute expressly covers multifamily dwellings without limiting the number of units, as long as the title to each individual residential unit is transferred to the owner under a condominium or cooperative system.  In other words, the right-to-repair statute is not intended to cover multifamily apartment dwellings, but would cover townhome communities.

Additionally, if the townhome communities include common areas owned or maintained by an association, the Georgia right-to-repair statute allows you to utilize its dispute resolution procedures for claims regarding construction defects in those common areas.  For example, like a construction defect claim raised by a single family homeowner, a contractor has the right to request an inspection of the common area within 30 days of receiving the complaint.   The inspection allows the contractor to document any alleged construction defects, and perform destructive or nondestructive testing to evaluate the nature, extent, and cause of the claimed defect and the extent of any repairs necessary to remedy the alleged defect.

Contractors should also be aware that before an association can bring a claim for damages resulting from construction defects in a common area, the association must meet certain requirements.  These requirements include that: (i) the members of the association must vote to approve the commencement of an action by two-thirds vote cast by statutory written ballot, or by at least two-thirds vote of the total membership at a meeting of the members at which a quorum is present; and (ii) the board of directors of the association must meet with the contractor in person and confer in good faith to attempt to resolve the claim, unless the contractor definitively declines or ignores the request to meet with the board of directors.   The association must give each owner a copy of the notice of claim provided the contractor and an additional written description of the claims and the reasons the board is recommending consideration of the litigation.  The notice must be given at least 3 business days before the meeting at which the association members will vote or at the time the statutory written ballot is circulated.

In sum, Georgia’s right-to-repair statute is a valuable tool for resolving construction defect disputes without resorting to litigation, including instances involving townhome communities and their common areas.