

Issues & Impacts

Seattle King County REALTORS® (SKCR) is working to ensure that public policies support homeownership and your business's bottom line. Please contact David Crowell, Director of Governmental & Public Affairs, at dcrowell@nwrealtor.com with any local legislative issues that may need our attention. **The next issue will be released in October 2021.**

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HOUSING INVENTORY

An Absolute Necessity for Solving the Housing Crisis

ALGONA: New Townhomes, Duplexes, Tri-plexes and Courtyard Apartments



City of
Algona Washington

Algona is moving forward with code changes to create a city review process for Binding Site Plans and Unit Lot Subdivisions. In addition, city code will also be updated to increase residential building capacity and regulatory streamlining. Staff work to modify the city's code was funded by REALTOR® supported legislation (HB 1923) that provided cities with access to Growth Management grants of up to \$100,000 from the Washington State Department of Commerce.

The city submitted its proposals to the Department of Commerce on June 22, 2020. Commerce was supportive of the city's efforts. In addition, the Planning Commission recommended adoption of the proposed amendments and forwarded them to the City Council for consideration and adoption in late May.

Under the changes, the city will:

- Authorize at least one duplex, triplex, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences.
- Authorize a duplex on each corner lot within all zoning districts that permit single-family residences.
- Allow for the division or redivision of land into the maximum number of lots through the short subdivision process provided in chapter 58.17 RCW, which will allow significant reductions in costs, as well as reducing the amount of time required to bring new housing to the marketplace.



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RENTON: Permit-Ready Accessory Dwelling Units (PRADUs)

The city of Renton has launched a new “Permit Ready Accessory Dwelling Unit Program” that includes several different pre-approved Accessory Dwelling Unit home designs, for FREE!

The size of the pre-approved, designed, and engineered ADU model base plans range from 418 to 1,000 square feet, and vary in architectural styles so that property owners can select an ADU that is complementary to the existing single-family dwelling.

When the program launched, the city touted eight different designs. But now, the city’s website displays 22 unique models to choose from that range from 1 Bed & 1 Bath, up to 3 Beds & 2 Baths.

According to the city, PRADU applicants will receive expedited review. In addition, the city also waived or reduced several fees associated with permit-ready ADUs and has indicated it will work with property owners one-on-one to create a site plan to accommodate the new units. The expedited review and waiver/reduction of fees will help to save costs, leaving more money available for construction of the ADU.

Accessory Dwelling Units - sometimes also called “Mother-in-Law” units or “Backyard Cottages” - are small, independent residential units located on the same lot as a stand-alone single-family home. They provide the same essential functions as a typical single-family residence, complete with a kitchen, sleeping area and bathroom, but are smaller than, or “accessory” to, the primary residence. In addition, Accessory Dwelling Units provide a number of benefits for both the public, as well as individual property owners:

- Creating additional housing in areas of high demand helps with housing affordability
- ADUs can provide more housing opportunities close to employment centers, thereby helping to minimize congestion, and pressure on road and transit systems
- Typically, the ADUs are located in areas already served by basic infrastructure, thereby

minimizing the necessity to extend sewer lines, water lines, or the electrical grid



Rendering courtesy of City of Renton

- ADUs provide an opportunity to increase the capacity for housing without moving the Urban Growth Line
- For homeowners who want to remain in their home but rent out the ADU, the additional housing unit can be a source of rental income that can help to defray the cost of property taxes, utility bills and insurance for the property owner, and
- Homeowners who want to down-size can move into the ADU, rent out the main residence, and still remain in the neighborhood and community where they live... along with having additional income from the sale or rental of the primary residence.

Additional information on Renton’s new Permit-Ready ADU Program is available by contacting PlanningCustomerService@RentonWA.gov, calling the city planners at (425) 430-7294, or going online to: <https://rentonwa.gov/cms/one.aspx?pagelid=17616630>



Rendering courtesy of City of Renton

KENT: City Estimates 6,000 Housing Units Needed by 2040



The city of Kent is preparing a Housing Options Plan to guide its future efforts to accommodate additional housing over the next 20 years.

Data prepared for the city indicates that between 2010 and 2018 Kent's population grew by 39%, twice as fast as most of the rest of South King County. Even so, the city will need another 5,999 units of housing by the year 2040. That would be 217% of the number of new housing units built in the city since 2011. For reference, 2,759 units have been built in the city of Kent since 2011.

Average rents for 2-bedroom apartments in the city have increased by 58% during the last 10 years. At the same time, home prices increased by 88%. But incomes have not kept pace: the incomes of renters increased by 25% from 2012 to 2018, but incomes of homeowners only increased 11%.

An additional concern for the city is the need for a wider range of housing options. Less than 5% of the housing units in the South-King County Region are condominiums. Studio-apartments, SROs and other single-person housing options are also in short supply. Nevertheless, the city's biggest need for housing will be for homes serving households earning more than 100% of the middle-income, and that need will likely be greater in Kent than in the county as a whole, according to the city's consultants. But city leaders are concerned about whether residents earning less than 30% of median income will be displaced – especially on Kent's East Hill - if housing is targeted to meet demand from higher-income households.

More information on the analysis of Kent's housing challenges is available at:

<https://www.kentwa.gov/doing-business/city-planning/kent-housing-options-plan>

MAPLE VALLEY: Planning for Projected Residential Growth

Washington's Growth Management Act (GMA) requires cities to plan for future projected residential growth. So, the city of Maple Valley is focusing on plans that it hopes will:

- Provide for workforce housing, create more options for seniors and singles, and bring the city closer to the countywide averages for the percentage of housing that is affordable to lower income households
- Increase multi-family units in the Town Center and other commercial districts, and
- Minimize the impacts of new development on existing neighborhoods

The Planning Commission is looking at potentially reducing the current maximum allowable density (36 dwelling units per acre) - and the height limit (85') - in commercial areas, and is seeking public input on the following questions:

- Which areas that are currently zoned "commercial" are appropriate for more higher density residential development? Which are more appropriate for primarily commercial development?
- How can the city encourage the development of affordable housing while meeting the needs of existing and future residents?
- Are there height, massing, or setback code amendments that are necessary to pair with the allowance of new multi-family residential development?



Photo Courtesy of
Realtor.com



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The city has identified two different options for members of the public to submit comments, including: emailing suggestions to Debi.Yankeh@MapleValleyWA.gov, with the subject line "PC Multi-Family Public Comment."

In addition, members the public are invited to attend any Planning Commission meetings to listen to the Planning Commission's discussions and also provide public comment (which is accepted at the beginning and end of every meeting). Planning Commission meetings are held on the first and third Wednesday of every month from 5:30 - 7:30 p.m. and are currently conducted via zoom at this link: <https://www.maplevalleywa.gov/what-s-happening/calendar>

The topic of accommodating future growth in commercially-zoned areas is expected to be on the city Planning Commission's meeting agendas through June 16, 2021. For questions, contact: Senior Planner Amy Taylor at Amy.Taylor@MapleValleyWA.gov, or Community Development Manager Matt Torpey at Matt.Torpey@MapleValleyWA.gov.

Redmond Housing Action Plan/Meeting with Mayor Birney



Redmond
WASHINGTON

The city of Redmond, like many cities, received a grant from the Washington State Department of Commerce through REALTOR®-supported House Bill 1923 in early 2020 to develop a Housing Action Plan.

The grant gave Redmond a rare opportunity to analyze the housing landscape, community needs, and the expected demand for the next two decades to identify ways to build more housing, diversify the housing options, and target resources to less advantaged households.

Seattle King County REALTOR® leadership joined in a virtual meeting with Mayor Angela Birney and her Development Services staff to discuss the Housing Action Plan and how we might support the development of additional housing units, and specifically units affordable to median income earners, often referred to as the missing middle.

You can read the Housing Action Plan [here](#).

Bellevue MFTE - More work to be done

Seattle King County REALTORS® is working with a broad coalition organized by the Bellevue Chamber to make important amendments to the Bellevue Multifamily Tax Exemption (MFTE) that will advance housing supply and affordability. SKCR supports MFTE programs because they offer a market-friendly approach to providing subsidized affordable housing.



In 2015, the city of Bellevue first adopted the MFTE Program. Based on state law (Chapter 84.14 RCW), this City program allows developers building multifamily housing to gain a 12-year tax exemption on the multifamily improvements in exchange for providing 20 percent of the total number of housing units in the project at affordable rates for a period of 12 years. The current Residential Target Areas (RTAs) where MFTE may be used include the Bellevue growth corridor (Downtown, BelRed, Wilburton) and mixed-use centers of Eastgate and Crossroads.

Two projects totaling 63 affordable units, both in Downtown Bellevue, have utilized MFTE prior to the program update launch. The Council and the Chamber Coalition are working to update the program requirements and increasing the geographic areas where MFTE can be used so that more projects will take advantage of the tool.



*Downtown Bellevue Park
Photo courtesy of VisitBellevueWA.com*

LANDLORD-TENANT RELATIONS

King County Tenant Protection

The King County Council passed a series of tenant protections that exceed the protections passed by the Washington State Legislature during this past session.

As many members own small rental properties and/or represent buyers and sellers of small rental properties, Seattle King County REALTORS® (SKCR) worked with the Council and partners like the Washington Multifamily Housing Association (WMFHA) to amend the proposed legislation to avoid a regulatory environment which could greatly add financial risk to owners and jeopardize broader building community safety.

In general, SKCR and WMFHA urged that County landlord-tenant laws align with state law to promote broad understanding and compliance of the law by tenants and rental housing owners.

Here is a matrix detailing the elements of the proposal and our requested amendments. Because of the press deadline, we will provide a link with the final enacted amendments.

Proposed Draft	Effect	SKCR-Requested Amendment	Rationale
New Section 5 Just Cause Eviction	Differs from recently passed state just cause eviction law.	Align with recently passed state law.	Patchwork of different laws jurisdiction-to-jurisdiction is difficult for tenants to understand and difficult for rental housing owners to comply.
New Section 7 Move-in fees not to exceed 1 month's rent.	Move-in fees are not defined.	Define move-in fees. Establish distinction between move-in fee limitations and security deposit limitations.	Limits on fees, especially security deposits lower the risks housing providers are willing to take on prospective tenants.
New Section 7 Payment plan for move-in costs.	Inconsistent with state law allowing 3 equal installments over 3 consecutive months.	Align with state law.	Patchwork of different laws jurisdiction-to-jurisdiction is difficult for tenants to understand and difficult for rental housing owners to comply.
New Section 8 Late fees not to exceed 1% of rent	Inconsistent with state law limiting late fees to \$75.	Align with state law.	1% of a \$1,500 rent is \$15.00. This does not cover the cost of business disruption.



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Proposed Draft	Effect	SKCR-Requested Amendment	Rationale
New Section 9 Rent increased are limited to 3%, with notice requirement of 4-6 months.	This amounts to rent control. Rent increase notice was increased in 2019 to 60 days.	Eliminate 3% rent increase cap. Align notice with state law.	Operating expenses such as property taxes and utilities are the chief drivers of rent increases.
New Section 10 Establishes administrative retaliation/prohibited acts.	Inconsistent with state law (RTLA) retaliation provisions.	Align with state law.	Patchwork of different laws jurisdiction-to-jurisdiction is difficult for tenants to understand and difficult for rental housing owners to comply.
New Section 11 Acceptance of rent disqualifies any prior enforcement actions under the RTLA.	Creates a disincentive to accept partial rent payment.	Remove section.	Creates a disincentive to accept partial rent payment.
New Section 12 Prohibits rent increase if the unit has defective condition.	Seattle already has a similar provision.	Align with Seattle law.	Patchwork of different laws jurisdiction-to-jurisdiction is difficult for tenants to understand and difficult for rental housing owners to comply.
New Section 13 Allow tenants to adjust rental due date.	Places an administrative burden on the rental housing owner.	Align with state law which allows tenants relying on SSI or SSD to pay on the 7 th of the month.	Patchwork of different laws jurisdiction-to-jurisdiction is difficult for tenants to understand and difficult for rental housing owners to comply.
New Section 14 Private right of action. Damages up to the greater of 2x tenant's actual damages or 4.5x monthly rent, including cost of suit/arbitration and atty's fees.	Promotes litigation.	Remove section.	Because administrative enforcement is already in place, private right of action is duplicative.
New Section 15 Prohibits late fees until after tenant fails to comply with 14-day notice.	Crates a disincentive for tenants to pay on time.	Remove section.	Violates contract law. Disincent tenants to adhere to their rental agreement. State law explicitly permits late fees to accrue any time after rent is due.

Proposed Draft	Effect	SKCR-Requested Amendment	Rationale
New Section 16 Prohibits request of Social Security number for tenant screening.	Eliminates use of tenant screening reports.	Remove section.	While SS#s cannot be required, requested, and given voluntarily, they increase the likelihood a prospective tenant is offered housing, who might otherwise be denied.
Section 17 Create a tenant right to counsel.	Requires county to pay the cost of counsel.	Remove section.	This past session, the State created and funded a right to counsel for all tenants. County funding is redundant.
Section 19 Outreach plan	Communicate law to tenants and rental housing owners.	Establish a structure for ongoing input from rental housing owners.	Rental housing owners are key stakeholders.

Kenmore Tenant Protections

The Kenmore City Council, under pressure from the Transit Riders Union, is contemplating local tenant protections citing the ongoing need to address COVID-19 impacts on tenants.



Council is exploring the following measures:

1. Create a defense to eviction for rental debt accrued due to pandemic-related hardship.
2. Create a defense to eviction if a tenant has a rental assistance application in process.
3. Ban late fees for rent that became due during the pandemic.
4. Require landlords to certify that they have attempted to obtain rental assistance before filing for eviction due to unpaid rent accrued during the pandemic.

5. Extend a moratorium on residential evictions through September 30, 2021
6. Allows tenants who fall behind on rent due to the pandemic to terminate a tenancy early.

SKCR testified to the importance of retaining existing rental units that are naturally affordable, noting that a large portion of these rental units are owned by small, mom-and-pop landlords who own 1-5 units. They tend to keep their rents moderate to keep the units rented. They are not wealthy investors, but regular people who invested in their community.

SKCR noted that many of our members work with these small landlords and are hearing about the tremendous financial strain and uncertainty that added tenant protections place on making the mortgage, affording sometimes double-digit increase in property taxes, and endlessly increasing utility rates ---bills are due whether or not tenants are paying rent.

If small landlords are pushed to sell, their properties will be subjected to market-rate redevelopment, with increased rents and less affordability.



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While there are programs that offer assistance to rental housing owners, they are narrow in their applicability and may fall well short of a financial lifeline:

- The King County Eviction Prevention and Rental Assistance Program is closed to new registrants.
- The Dept of Commerce Landlord Mitigation Program. The average approved claim is less than \$2,600.
- The Limited Landlord Relief Program administered by the WS Dept of Commerce requires the property owner’s income to be at or below the local Family Median Income defined by the US Administration.

Final action was expected in June.

KENT: New 40-day Additional Notice Required to Terminate Month-to-Month Tenancies

On April 6, the Kent City Council unanimously passed Ordinance 4399 to give additional protections to renters in the city of Kent. Specifically: landlords must now give tenants 60 days warning, instead of just 20 days, that a month-to-month rental agreement will be terminated

Beginning August 1, 2021, landlords will be required to provide tenants with a written notice that they intend to terminate their tenancy or end their period-to-period residential rental agreement. The new city-mandated notice must be provided to tenants at least 40-days prior to a landlord giving a tenant the “20-day notice of termination” currently required by state law under RCW 59.18.200(1)(a). A violation of the city ordinance provides the tenant with an affirmative defense to eviction.

According to the city, the ordinance is intended to “empower tenants with additional time to find alternative housing while not interfering with the ability of landlords to manage their property-related business.”

City officials noted the city’s “high rental occupancy rate and a diversity of languages represented in Kent” and said the ordinance seeks to “reduce homelessness and evictions in Kent due to renters being unable to find accommodations under the

short notice of 20 days required by state law.”

The city also referenced reports that Kent is the 8th most ethnically diverse city in the nation and said the Kent School District’s website states that “over 130 languages are spoken in the homes of school district students.”

Moreover, said the city, according to the American Community Survey 2019 five-year census data, “44% of Kent’s housing units are renter-occupied. With a high rental rate and diversity of languages, there is risk that a portion of the renting community will not be able to easily understand the terms of a rental agreement and may have challenges in finding housing when faced with the end of the landlord-tenant relationship.”



Photo courtesy of Kent Chamber

REAL ESTATE SIGNAGE

Issaquah Sign Code

The city of Issaquah Planning Policy Commission debated amendments to the sign code earlier this spring and has forwarded its recommendations to the City Council.



SKCR worked with the Commission and staff to arrive at a proposed code update that would support real estate signage and the needs of our members.

Importantly, Issaquah has drafted a package that meets community objectives and is understandable, practical and aligns with the US Supreme Court Reed v Gilbert decision. SKCR concurs fully with the city that Reed v Gilbert applies to noncommercial

speech exclusively and does not apply to commercial sign regulations --- including real estate. Because many Issaquah homes can be difficult to find, SKCR is requesting an allowance of one additional off-premises open house A-board, for a total allowance of 4 signs.

The City Council has spent one study session on the issue and plans to conduct further review in an ad hoc committee. Final passage is expected in late-June.



Photo courtesy of Issaquah Highlands

HOUSING REGULATIONS

BURIEN: Ambaum Corridor Moratorium Extended

The Burien City Council has extended a development moratorium in the Ambaum Boulevard Corridor in order to update subarea plans and zoning codes, especially in connection with how the corridor may evolve in connection with the King County Metro Transit Department's RapidRide H-line Investments.



Those investments include signal priority, revisions to travel lanes, and other investments along the Ambaum corridor in an effort to achieve faster and more reliable travel times between the Burien transit center, White Center and downtown Seattle.

According to the City Council's resolution, Burien intends to significantly update and amend development regulations that apply to certain parts of the Ambaum corridor, including requirements for various types of residential, commercial, retail and office space. The city wants to complement Metro's forthcoming regional investments in bus rapid transit and pedestrian safety improvements, all of which are part of Metro's plans for new transit-oriented development projects. Allowing new development in certain parts of the Ambaum

corridor before the City Council fully considers potential new Ambaum development regulations could substantially impact orderly growth in the Ambaum corridor. Thus, the moratorium.

The moratorium on new developments applies to new construction, remodels affecting more than 50% of exterior or interior improvements, and parcels within 300 feet of the midpoint of intersections on Ambaum Boulevard SW at the following cross-streets where RapidRide "H Line" stops are planned: SW 116th Street, SW 122nd Street, SW 128th Street, SW 136th Street, SW 142nd Street, and SW 148th Street, except properties located within the Downtown Commercial zone.

The Ambaum Boulevard Corridor and Boulevard Park subarea planning project is set to be completed by the end of 2021, with City Council consideration of zoning changes in early 2022.



Photo courtesy of City of Burien



Issues & Impacts

TAXATION

Seattle Payroll Tax

SKCR staff and legal counsel conducted a series of email and telephone discussions with real estate attorneys and with the city of Seattle Finance staff regarding the application of the City's Payroll expense tax to real estate brokerage firms. The "JumpStart" tax, as it is now known, applies to compensation in excess of \$150,000 earned by independent contractors in Seattle. The tax must be paid by the employer, or the real estate firm, if the firm's payroll (commission income earned) exceeds \$7 million annually.

We have sought clarification from the City on the method real estate brokerage firms should use in computing "compensation earned" by their independent contractor brokers in Seattle. Real estate firms do not record, nor do they require, that real estate brokers affiliated with the firm track the time they work in any given area or the time they devote to a transaction. Because the language of the ordinance contemplates tracking "where" an employee performs services or "how much time" an employee devotes to "performing services in Seattle," we asked the City how real estate firms should accomplish this. We suggested two possible methods for doing so, one based on the location of a broker's license and the other based on the physical location of a broker's closed transactions. In a letter to us, the Finance Department has rejected both suggestions, stating that "The Director does

not have the discretion...to provide an alternative apportionment for an entire industry." Instead, the letter indicates an individual firm may petition the Director for an alternative apportionment method.

Additionally, it's unclear at this time whether or not compensation earned by individual brokers who incorporate as LLC's may also be added to the payroll tax of the real estate firm. WR's tax counsel will be providing an expert opinion on the applicability of the tax to LLC's, and we will wait for that analysis before going back to the City for its answer on the applicability of the tax on LLC's.

Meanwhile, King County Superior Court Judge Mary Roberts ruled against the Seattle Chamber and in favor of the City, leaving the tax in place. The Chamber is considering an appeal. We are also exploring legal options we might consider on behalf of real estate firms.



City of Seattle



Photo courtesy of iStock via Seattle Business Magazine

PUBLIC SAFETY

AUBURN: City Amends Its “Camping” Ordinance

The Auburn City Council has voted to modify the city’s “camping” ordinance that it passed in September 2020 to regulate camping on city-owned property when other shelter space and services are immediately available. City staff said the revisions are intended to interrupt the Environmental, Economic, Financial and Human impact that the city’s current approach is allowing to occur. The changes were drafted in consultation with the Departments of Parks, Public Works, Community Development, Legal, Police, Administration and the Mayor’s Office.



The Council’s decision was controversial, and not unanimous. Opponents characterized it as criminalizing homelessness, and suggested it was inconsistent with the city’s stated “Service First” philosophy.

However, in explaining the situation to the Council, city staff recommended the City Council “take additional action that emphasizes the city’s ‘Service First’ philosophy while mitigating the Environmental, Financial, Human, and Economic impacts that result when individuals are allowed to remain within homeless encampments while shelter space and services are available.”

According to the city, those impacts include the following:

Environmental Impacts

Over the last 6 months, city staff has encountered 43 separate homeless encampments, 29 of which are located within wetlands or riparian river habitat areas. Encampments located within these environmentally sensitive critical areas impact the environment in the following ways:



- Native vegetation is heavily damaged. That Native vegetation is crucial to the survival of both aquatic and terrestrial life that rely upon wetlands, rivers, and their surrounding buffers. Native vegetation also provides root structure that ensures soil remains intact and does not erode into creeks, ditches and other water ways.
- Debris is often placed in wetlands, creeks and other water ways. Staff routinely find used needles, human waste, electronics, batteries, plastic, food waste, and other items within these environmentally sensitive areas. This adversely impacts water quality, which in-turn impacts fish, aquatic life, terrestrial life, plants, and aquifers.
- Debris that makes its way into the Green or White Rivers is often deposited outside of Auburn in downstream communities and/or into Commencement Bay or Lake Union. This includes plastic, used needles, feces, cans, clothes, wrappers, toys, and food waste.
- The Puyallup Tribe has documented used needles in their fish traps and has requested that upstream communities provide assistance in reducing debris entering critical salmon-bearing rivers.

Financial Impacts

Cleaning up homeless encampments is expensive. Haul costs alone range from \$10,000 to \$50,000 per encampment. These costs become more expensive when the encampment is located within an environmentally sensitive critical area because mechanized equipment or vehicles are not permitted to access wetlands and riparian river habitat. Hauling must be carried out by hand. And even then, the hundreds of trips back and forth from the encampment to the trucks will further damage these areas. And once clean, the city has an obligation to restore the vegetation that was damaged in order to eliminate the potential for invasive and/or noxious plants from becoming established.

Cleaning 43 encampments will range in cost from \$430,000 to \$2.125 million. Without intervention, these costs will re-occur each year.



Issues & Impacts

Human Impacts

The homeless population is not thriving within the current city approach. People are being harmed and/or dying, drug addiction continues, and children are not being protected... even though the services exist within the city to interrupt these alarming patterns.



In the last six months, several homeless individuals have died due to a drug overdose. City staff had already begun working with these folks before they died.

Homeless individuals have been stabbed, lit on fire, and boulders thrown at their heads by other homeless individuals, according to city officials.

In a few instances, children are being raised within homeless encampments. Babies are born within encampments. In one encampment, a mother has been raising five children who range in age from 6 to 14. Agencies that typically enter a home environment to address the welfare of children will not go deep into the woods.

Drug use and addiction is rampant within the encampments. Of the 43 encampments, 41 had dozens of used needles. The two that did not have needles were littered with empty liquor bottles.

Economic Impacts

City staff and City Council members say they have heard from a number of different residents and business owners who have expressed concerns over the issues that surround homelessness. Those issues include:

- Outside of the above city costs, private property

owners are also incurring costs. Individual property owners and business owners routinely clean the sidewalks, doorways and landscape areas of used needles, human feces, and general litter. Many do so on a daily basis.

- City staff routinely hear from business owners that their employees and patrons indicate that they do not feel safe within the community due to the portion of the homeless population that exhibit behaviors associated with drug use, unstable mental health, break-ins and theft, etc. Whether real or perceived, if this becomes a narrative associated with Auburn, business owners will lose patrons and employees, and the city may lose businesses.

The staff report to the City Council suggested that the last six months of experience - plus the launch of a new Community Court that will have the capacity to help address the challenges facing individuals needing assistance with homelessness, mental illness or addiction - are reasons to revisit the city's codified approach to homelessness. In addition, the staff noted that the ordinance (# 6817) includes additional admonishment processes, and an administrative appeal.

Some Councilmembers - including Yolanda Trout-Manuel - spent several hours in the field with city of Auburn Homeless Outreach Program Administrator Kent Hay to tour a number of encampments firsthand, and to get a better understanding of the extent of the conditions. Council member Trout-Manuel initially favored a different approach championed by Councilmembers Larry Brown and Chris Stearns, but eventually chose instead to support the changes approved by a majority of the Council. She told the REALTORS® that the way members of the homeless community were being victimized was especially concerning to her, including the plight of children, and individuals being raped, lit on fire, assaulted and stabbed.

IN OTHER NEWS

Cities Respond to *State v. Blake*: Possession of Drugs - Controlled Substances

On February 25th in *State v. Blake*, the Washington Supreme Court invalidated the state's simple drug possession statute on constitutional grounds, in-part because of the potentially severe consequences of a felony drug conviction.

The Court held it was unconstitutional to criminalize possession of drugs unless the state proved beyond a reasonable doubt that the defendant had a criminal intent.



*Sheryl Gordon McCloud
Washington Supreme Court
Justice & Author of the
opinion in State v. Blake*

Washington state's high court indicated that the absence of a requirement to prove a defendant's "criminal intent" created a "strict liability" crime that allowed a defendant to be convicted without the state having to prove that possession of drugs was intentional or knowing - merely that the possession had occurred, even if the individual was not aware they were possessing the contraband. An example would be if a person borrowed a car, or jacket, that had drugs in it.



While lower courts had developed an "affirmative defense" of "unknowing possession" that a defendant would have the responsibility to prove at trial, the Supreme Court found that shifting the burden of proof away from the state - and requiring a defendant to prove his or her innocence - was unconstitutional, especially in connection with a defendant who unintentionally came into possession of drugs without making a willful choice to do so.

Cities and counties, including jurisdictions in King County, did not have their own laws making drug possession illegal because the state statute had "preempted" (prohibited) cities doing so. With preemption, felony prosecutions can only be undertaken in the name of the state, and not on behalf of local governments. But the result of the Supreme Court's decision in the Blake case has been to nullify the preemption doctrine, at least until the Legislature passes a new law that makes "knowing" possession of illegal drugs a felony. In the meantime, mere possession of drugs (not involving an intent to distribute drugs) was no longer illegal under either state law, or city ordinance.

Federal Way was one of the earliest cities in South King County to consider adopting an ordinance to "fill the hole" created by the Blake decision. In late May, Enumclaw also followed suit. City ordinances endeavor to step-around the constitutional defect in the now-invalidated state law by requiring that the possession of the drugs be "willful" or "knowing" - either of which would be sufficient to establish a "criminal intent."

In the case of Federal Way, drug possession arrests would be made by city police officers and the cases would be prosecuted in the city's municipal court. Because the Federal Way police already investigate drug possession

cases in the city, the police-related costs of the city's proposed ordinance would be negligible.

Speaking on behalf of Federal Way Mayor Jim Farrell, City Attorney J. Ryan Call advised city councilmembers that, "Without the prohibition against possession of extremely harmful and addictive drugs such as cocaine, heroin, and methamphetamine, secondary crimes that directly impact our citizens will likely increase. Theft, violent crime, impaired driving, and many other crimes have a direct correlation to the use of these types of drugs. Mayor Ferrell believes that is untenable to allow the consequence-free possession of these types of substances in a city of our size."

Before it adjourned earlier this year, the Legislature passed Senate Bill 5476 as a two-year compromise that reinstated a state penalty - but only a misdemeanor, not a felony penalty - for knowingly possessing drugs. In the meantime, an advisory group was charged by the Legislature with the responsibility to review the legal system's handling of drug offenses, and to develop a plan for addressing substance abuse statewide.

The new law encourages prosecutors to divert cases for assessment, treatment and other services, unless a person has been diverted on two previous occasions. Individuals found guilty in cases that were not diverted could be subject to a maximum penalty of 90 days in jail, a fine of up to \$1,000, or both.

Senate Bill 5476 - which was signed by the Governor on May 13th - also requires the creation of a Substance Use Recovery Services Plan, including provisions for grant funding to provide treatment services to low-income individuals, expanded recovery support and a homeless outreach transition program.

In addition, to assist youth and adults with substance use disorders, Behavioral Health Administrative Services Organizations (BHASOs) must establish a Recovery Navigator Program that provides community-based outreach, intake, assessment, and connection to services. Individuals confined in correctional facilities who are entitled (pursuant to *State v. Blake*) to vacation of a conviction, or recalculation of an offender score, may be released from confinement if their release is authorized by a court order.



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PROTECTING YOUR BUSINESS

Elections in 2021

Laws govern the way in which you conduct your business and affect your bottom line. Laws are made by elected officials. This year's election will be conducted for local races – city councils and the county council. The primary election is on August 3, and the general election is on November 2. Candidate filing occurred from May 17 through May 21.

REALTORS® don't just sell homes. We sell neighborhoods and Quality of Life.

REALTORS® know that Quality of Life begins with a good job in a company that has a great future. Homes are where those jobs go at night. That's why it's so important to have elected officials who understand the key contribution that jobs and housing make to healthy, vibrant communities.

We need elected officials who share our REALTOR® values, and who appreciate the hard work you do as a real estate professional. So, members of the Association reviewed voting records of elected officials. And it's why your REALTOR® colleagues conducted candidate endorsement interviews with candidates running for office.

This year Seattle King County REALTORS® will act to protect and enhance your business by supporting candidates for local office (city councils, county council) who share our REALTOR® values. Your REALTOR® Voting Guide, which identifies candidates endorsed by the Seattle King County REALTORS®, will be posted online at www.nwrealtor.com by mid-July.



REALTORS® Political Action Committee (RPAC)



NEW! An Easy, Quick Way to Protect Your Business - REALTOR® PAC ONLINE

Introducing a new secure, online REALTOR® PAC (RPAC) investment site making it easier than ever for busy REALTORS® to protect their business. We can't all go to Washington D.C., the state Capital, or even our City Halls while government leaders are making decisions that affect our industry; but while we are busy, REALTOR® PAC can fight for us and for our clients. Please make an investment of **\$50, \$100, or \$500** to ensure that when government acts, there is no harm to real estate, no new taxes, and no added unnecessary complications to the real estate transaction.

As of June 2021 (most recent information available), SKCR has raised \$306,512 for the REALTOR® PAC with a participation rate of 16%.

Please invest in REALTOR® PAC at: www.warealtor.org/government-affairs-main/rpac

Issues & Impacts is a quarterly publication produced by Seattle King County REALTORS® to inform members about current issues and successes within your Governmental Affairs Department. We will release our next publication in October 2021.

Our **2021 VP of Governmental & Public Affairs** is **Eddie Chang** - eddie@changgroup.com

Our 2021 **VP-Elect of Governmental & Public Affairs** is **Garrett Nelson** - garrett@exre.com

Our **Staff Director** is **David Crowell** - dcrowell@nwrealtor.com

Our **Local Legislative Housing Advocates** are

Sam Pace - sam@sampace.com and **Randy Bannecker** - randy@bannecker.com

Please call David at 425.974.1011 ext. 704 if there are any local legislative issues that need our attention.