

# Issues & Impacts

Seattle King County REALTORS® is working to ensure that public policies support homeownership and your business's bottom line. Please contact Governmental & Public Affairs Director David Crowell, [dcrowell@nwrealtor.com](mailto:dcrowell@nwrealtor.com), with any local legislative issues that may need our attention. **The next issue will be released in July 2018.**

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## Seattle Mayor Jenny Durkan Declares the Need to Create More Affordable Housing

In her first State of the City address, Mayor Jenny Durkan underscored the need of the city to add housing units – both subsidized and market-rate.

Seattle King County REALTORS® is encouraged by Mayor Durkan's commitment to creating housing options through timely permitting and greater density. We will help the mayor promote these key strategies as part of the solution to housing affordability challenges throughout the city.

Here's an excerpt on housing from the mayor's address:

In December, we announced the largest single investment ever in affordable housing: \$100 million.

While there will be hundreds of new affordable housing units coming online in 2018, in four years, I want to say we built thousands, in every

part of the city, at every economic level.

We need to speed up permitting, add density, and expand our housing options in every part of this city. Like more mother-in-laws and backyard cottages.

Second, in addition to building more affordable housing, we must have more short-term shelter that is both accountable and safe. While there's no quick fixes, we can make progress.

Over the last five years, our city's annual direct investments in programs to fight homelessness have grown from nearly \$40 million to nearly \$70 million.

This year, the city of Seattle is requiring more accountability of our homeless service providers.

We will move twice as many people into



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permanent housing as we did last year. To help move more quickly, I proposed legislation establishing “Building a Bridge to Housing for All.” This plan urgently does two things:

First, it seeks to prevent homelessness by starting a two-year pilot to provide rental assistance to those people who need help the most because

they’re on the brink of becoming homeless.

Second, it will invest millions in shorter-term, safer shelter that is more humane.

Our shelters and sanctioned encampments are almost full. While we build more long-term housing, we need this funding to help people.

## Seattle King County REALTORS® Continues to Encourage HALA Upzones Promoting Housing Inventory

Seattle King County REALTORS® views HALA, the Seattle Housing Affordability and Livability Agenda, as critical in easing the impacts of the housing supply crisis. The goal of the initiative is to produce 20,000 affordable homes and 30,000 market-rate homes over the next ten years. How? By building up.

The upzones proposed by HALA primarily apply to parcels already zoned commercial or multi-family in urban villages and surrounding neighborhoods. Typically, these parcels would be allowed an additional story or two of height, yielding additional zoned capacity for both rental and ownership

residential units. Very few single-family zones parcels would be affected.

This additional zoning capacity doesn’t come free to developers. To access it, developers of each new commercial and multi-family residential development must either include affordable housing as part of their development or make a payment to support affordable housing in Seattle.

There are ongoing public meetings regarding HALA. Please see the city of Seattle’s website for more information: [www.seattle.gov/hala](http://www.seattle.gov/hala).

## Seattle King County REALTORS® Help Fight Off Attacks on Septic System Owners

For the last two years, the King County Department of Health and Public Health Seattle-King County have waged attacks on South King County property owners of homes served by on-site sewage systems (septic tanks). The bureaucrats in these offices want more money for their programs and have attempted to impute environmental harm to septic tanks that simply is not factually accurate.

Since the beginning, REALTORS® have played an important role in fighting back against these tax-hungry agencies by:

- Opposing the “turd tax” on existing septic systems;

- Disclosing the failure of bureaucrats to include appointed stakeholders – including local REALTOR® representatives – in the vetting of new tax proposals targeting septic systems;
- Opposing expensive new requirements that would have mandated the creation of new as-built drawings for existing septic systems. The requirements were based on officials’ unfounded claims that microfiche viewers weren’t available to examine existing as-built drawings (senior officials were quickly forced to admit that this was not true, and many septic tank owners believed officials made the claims up as retribution for thousands of rural residents mobilizing to kill the “turd tax”); and

- Opposing the agencies' attempts to require easements and third-party inspections of private properties, even though the County lacks the legal authority to conduct such inspections itself without violating the Constitution.

So, this year, the Citizens Alliance for Property Rights (CAPR) – with support from Seattle King County REALTORS® and COOM WA – asked legislators to rein in the agencies' continuing assault on septic system owners. In a bipartisan effort to do this, two members of the state legislature from Covington – Democratic House Majority Leader Pat Sullivan and Republican Rep. Mark Hargrove – co-sponsored legislation (HB 2420) that would:

1. Prohibit the agencies from requiring easements;
2. Prohibit requirements for third-party inspections; and
3. Allow property owners to repair septic systems rather than require the systems be replaced, so long as the repairs will restore the system to good working order (after all, it's just common sense that government can't require you to buy a new car just because you have a flat tire).

Also, the bill requires that the agencies allow the least expensive alternative that will repair the system to good working order, and that the

agencies coordinate with property owners when inspecting failing systems.

Everything with HB 2420 was going well until state agencies obtained an amendment to the legislation that would have effectively required that virtually all on-site septic systems be subject to close monitoring, based upon the unsubstantiated assumption that such systems leach pollutants into aquifers. This video from CAPR explains why the so-called science on the environmental impacts of septic systems provided by the agencies is incorrect: [www.youtube.com/watch?v=iq5TY4qHWjo](http://www.youtube.com/watch?v=iq5TY4qHWjo).

In response to this latest ploy, REALTORS® assisted The Citizens Alliance by providing information that helped convince interested legislators the agency claims were false, and that the bill should be approved. The bill passed the House of Representatives by a vote of 96 to 1.

Numerous hurdles remain, but at this point legislators have accurate information that makes it easy to understand the commonsense reasons the legislature should approve this very modest Bill of Rights for Septic System Owners.

*[Editor's note: HB 2420 did not pass, but is expected to be revisited in 2019.]*

### Seattle Income Tax May Be Heard by State Supreme Court

Last July, the Seattle City Council unanimously passed a city income tax that would impose a 2.25 percent tax on total income above \$250,000 for individuals and above \$500,000 for married couples filing together. The measure was supported by then-Mayor Ed Murray. The tax is estimated to raise \$140 million per year.

Important to the real estate industry is that the income thresholds would include equity gains from home sales. Windermere Real Estate Chief Economist Matthew Gardner warns that this could

result in even less willing home sellers in “an already supply starved market.”

Multiple parties challenged the tax in King County Superior Court, citing the prohibition on income tax under the state constitution. In late November, King County Superior Court Judge John R. Ruhl ruled that the city ordinance is not authorized under state law.

The city is appealing the Superior Court ruling to the Washington State Supreme Court. We don't



yet know whether the Supreme Court will hear the case or refer it to the Court of Appeals.

As former Washington State Attorney General Rob McKenna said in July, “Seattle’s new income tax is all about setting up a test case. Some activists are convinced today’s state Supreme Court justices

are anxious to overturn precedent and clear the way for a state income tax, with graduated rates.”

Seattle King County REALTORS® will keep members apprised of the state Supreme Court process.

## Medina Sign Code Goes Back to Planning Commission

After several months of review, the Medina Planning Commission has scheduled a public hearing on the sign code.

REALTORS® succeeded in encouraging the commission to propose a real estate sign code in line with industry sign standards by increasing the

overall size of for sale signs on a property to 24 inches by 30 inches and allowing three 24-by-24-inch off-site open house A-boards.

The City Council is expected to act on the sign code later this spring.

## Kirkland Planning Commission Reviews Sign Code

Seattle King County REALTORS® was successful in its testimony to the Kirkland Planning Commission and Houghton Community Council regarding the sign code.

The commission is making the following recommendations to the Kirkland City Council concerning real estate signs:

- One on-premise for sale sign (6 square feet max).
- Open house A-boards (6 square feet max).

- o One sign per block with ¼ mile of the property for sale.

The city of Kirkland is most concerned about A-boards used by businesses for advertising and direction because of sidewalk clutter and traffic interference. While real estate signs do not appear to be a problem, all A-boards have been under scrutiny.

We expect the council to take up the issue in March.

## Short-Term Rentals

Platforms like VRBO/HomeAway and Airbnb have made short-term rentals easy for property owners and consumers. As such, short-term rental use has grown rapidly in many markets throughout the country – and cities have taken note. Now, cities are seeking to regulate short-term rental activity to limit its impact on housing markets and to prevent people from operating “ghost hotels” in neighborhoods, which reduces the number of units available on the long-term rental market. In addition to regulations to keep long-term units on the market, cities want added tax revenue.

The Seattle King County REALTORS® position is that short-term rentals offer homeowners an opportunity to generate income from their homes by renting out a room, a basement, or the entire place. This rental income can play an important role in making ends meet in our expensive housing market. For homeowners on fixed incomes, the added revenue can help guard against being taxed out of one’s home.

For visitors, short-term rentals offer an affordable

alternative to hotels and motels. Visitors may be here to see family, explore career opportunities, or search for permanent housing, and city merchants benefit from their spending. The city will benefit from license fees and lodging taxes on short-term rentals.

### Seattle

The Seattle City Council took final action on short-term rental regulation in December. The new regulations require that all operators of short-term rentals get a license. Existing operators are limited to two short-term rental units per operator, in

addition to their primary residence. New operators will be limited to their primary residence plus one additional unit. Existing operations of multiple short-term rentals under a single owner in the Downtown core and parts of the First Hill/Capitol Hill urban centers are grandfathered.

In addition to the required license, operators will pay a tax of \$14 per night for an entire home and \$8 per night for a part of a home, such as a spare bedroom.

The new regulations go into effect Jan. 1, 2019.

### Maple Valley Moratorium

Maple Valley has imposed a six-month moratorium on accepting applications for new multi-family dwelling units (e.g., apartments and condominiums) in the city's Town Center and Business Community zones.

The moratorium, which the city characterizes as "interim zoning regulations," temporarily halts permitting of new multi-family projects for a period of up to six months, except for a maximum of 200 new units in the Community Business Zone.

Maple Valley says it has seen rapid residential growth and permitting activity in recent years.

The 2011 update of the King County Countywide Planning Policies assigned the city a growth target which included the construction of 2,382 new housing units. The city is required to accommodate the construction of those new housing units by the year 2031. According to city officials, Maple Valley is on pace to meet (and likely exceed) that number of new housing units by 2021, 10 years early.

Individuals with questions regarding the interim zoning regulations should contact Maple Valley Community Development Manager Matt Torpey at 425.413.8800 or at [matt.torpey@maplevalleywa.gov](mailto:matt.torpey@maplevalleywa.gov).

### Tukwila: International Boulevard Moratorium Extended for Another Six Months

On Jan. 16, the Tukwila City Council extended the existing six-month moratorium on development in the Tukwila International Boulevard (TIB) Study Area to prevent development and redevelopment that may occur. The city believes development and redevelopment would be contrary to the comprehensive plan vision and preliminary recommendations from the TIB Rising workshop hosted by the city of Tukwila and the Congress for New Urbanism.

The initial six-month moratorium, now being

extended for an additional six months, was adopted on July 17, 2017. The moratorium includes proposals to develop or redevelop hotels, motels, extended-stay facilities, and auto-oriented commercial uses, including but not limited to gas stations, battery, tire, engine and body repair shops, motor vehicle sales or rentals, and commercial parking.

In February 2017, Tukwila and the Congress for New Urbanism held a community workshop known as TIB Rising. The workshop resulted in a final report that recommends revisions to permitted uses, building



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placement and heights, and a revised cross-section for Tukwila International Boulevard. The city staff is continuing to analyze those preliminary recommendations and incorporate them in two specific proposals for the public to review.

City staff has noted that:

- The current zoning code regulations for the Tukwila International Boulevard Study Area were adopted before the 2015 update of the city's comprehensive plan, and before regional location decisions to place a transit facility within the neighborhood. Development or redevelopment that is consistent with current standards could be inconsistent with the community's vision for a more dense and

walkable neighborhood, and for streetscapes with active building facades.

- Part of the reconfiguration of the neighborhood includes making changes to street design, which means reconfiguring Tukwila International Boulevard and considering motor vehicle traffic impacts, the costs of the changes, and changes to land use designations that are necessary to implement the recommendations.
- Due to serious crime, the federal government seized three motels in the Study Area. The City subsequently purchased the property and demolished the motels to reduce crime and improve public safety.

## **Auburn Makes Changes to Allow More Efficient Use of Land and Accommodate More Housing**

Auburn is changing the way it calculates the number of homes that will be allowed on a parcel of property. The changes – which will allow more housing to be built, and will make more efficient use of available land – involve a city decision to modify Auburn's development regulations so that the number of housing units which can be built will be based upon the property's gross site area (the entire parcel of land) rather than the net site area (the usable portion of the lot).

The ordinance adopted to enact the change says members of the city council have an "ongoing interest in simplifying land-use decision-making, lowering city and customer costs, and taking advantage of enhanced efficiencies," where those objectives can be met without sacrificing the quality of decision-making or opportunities for public input.

According to the city, the prior practice of using a net site area formula created confusion and inconsistencies that placed a heavy burden on

property owners and staff when trying to determine how many homes could be built on a plot of land. This practice also resulted in lower density subdivisions than what the city anticipated would be achieved with build-out under Auburn's long-range plans and land use designations.

The changes approved by the Auburn City Council will also authorize an administrative waiver of the requirement to meet minimum density when a lot is encumbered by critical areas, conservation easements, utility easements, or other encumbrances that make it impractical to meet the minimum density requirement. This change is crucial because if the minimum density cannot be met and no waiver is available, absolutely nothing would get built. The waiver provision will allow housing consistent with the carrying capacity of the land, instead of effectively prohibiting any housing at all from being built.

According to the city, the minimum density requirements have made smaller lots difficult



to subdivide because the properties' size, configuration, utility layout, existing development, and surrounding development "tend to preclude any subdivision at all." The council has recognized that short plat developments (nine or fewer homes) "require greater flexibility in order to encourage small lot infill subdivisions."

Auburn's changes will also eliminate the minimum density requirements for short subdivisions of nine or fewer lots, as well as eliminating the requirement that all subdivisions adhere to a minimum average lot area. The minimum lot size in the R-5 zone is being reduced from 6,000 square feet to 4,500 square feet.

In short, the administrative waiver to the city's minimum density requirements will allow more

efficient use and greater density when developing parcels that are heavily encumbered with critical areas, BPA power line easements, or conservation easements that would otherwise limit any development.

Auburn – which has been at the forefront of King County local governments in pursuing intelligent, reality-based, common sense approaches to responsible development that will meet the need for housing while protecting important community values – recognized and acknowledged that the prior approach of using net site area in development regulations "has had little benefit in the final design and function of new residential communities...and has been a constraining factor when designing new communities" within areas of the city zoned R-5.

### **Kent Considers Potential Changes to Urban Separators**

For several years, Kent property owners have been requesting changes to zoning and allowed development densities on properties the city has identified as urban separators. As a result, city staff have presented an array of alternatives for the city's Land Use and Planning Board, which acts as a planning commission for the city of Kent, to consider. Eventually, the Land Use and Planning Board is likely to present its recommendations for action to the Kent City Council for formal action.

The issue of urban separator land use designations is especially important for REALTORS®, and for the supply of housing in the community, because of the considerable amount of land reserved under the urban separator label.

These urban separator lands have the absolute lowest zoning of any land in officially designated urban areas of King County. Such 1-unit per acre zoning has been justified by reference to high-sounding platitudes that are rationalizations for one of the last remaining vestiges of officially-

sanctioned NIMBYism in urban areas that under the state's Growth Management Act (GMA) were intended to be characterized by compact, efficient, urban densities.

It is the Kent Comprehensive Plan, and the King County Countywide Planning Policies, that designate certain areas Kent as urban separators. According to the city, these areas are intended to create "visual definition within and between urban areas, buffer rural or resource lands, preserve opportunities for recreation, and connect wildlife and critical area corridors." The designation effectively limits development on these parcels to one residential unit per acre, a density somewhere between suburban and rural, but not urban as envisioned under the Growth Management Act.

So, the Kent City Council directed staff to evaluate whether urban separator land uses are appropriate in Kent. Based on an internal review that examined the inventory, characteristics and regulatory consistency for urban separator properties, city



staff developed five preliminary alternatives for changes to the city code which the staff says are not exhaustive. The staff has also suggested the alternatives are not mutually exclusive.

The five alternatives include:

1. Preserving the status quo.

This alternative would preserve existing urban separators and maintain 1-acre zoning. Staff would implement the alternative by recommending denial of more intense land use applications based on failure to demonstrate changing circumstances that would warrant Comprehensive Plan amendments, or that would result in long-term benefits for the community.

Moreover, because Kent claims to have sufficient buildable lands to meet its housing targets, there is no demonstrated need to allow higher density zoning in urban separator properties, according to city staff. This alternative would be the fastest and easiest for the city to implement.

2. Adopting a long-term policy of retaining urban separators.

This alternative would preserve existing urban separator lands while allowing some portions (but not all) of the urban separator properties to be strategically designated under a “reserve zoning” overlay as lands that could be considered for more intense development at some point, but only if Kent’s other vacant and redevelopable land cannot accommodate the city’s projected growth targets. King County has used the model of reserve zoning, stating as its purpose:

“...[T]o phase growth and demand for urban services, and to reserve large tracts of land for possible future growth in portions of King County designated by the Comprehensive Plan for future urban growth while allowing reasonable interim

uses of property...

“...[T]his zone is appropriate in urban areas, rural towns or in rural city expansion areas designated by the Comprehensive Plan, when such areas do not have adequate public facilities and services, or are not yet needed to accommodate planned growth, [or] do not yet have detailed land use plans for urban uses and densities...”

According to city staff,

“Lands that score the lowest...in terms of overall consistency with urban separator policies nevertheless provide important benefits in one or more categories. Even the lowest-scoring urban separator lands still contain critical areas, connect wildlife corridors, or preserve low-density development to protect at-risk watershed sub-basins. This alternative would maintain these benefits until the land is needed to accommodate new growth.”

3. Adopting a long-term policy for considering land use plan map amendments to urban separator lands.

This alternative would establish a new policy framework that would aim to establish a basis for determining whether – and under what circumstances – urban separator lands may be re-designated if they meet specified criteria that is based on the city staff’s analysis of the inventory, characterization, and regulatory consistency. Because this alternative would require amending both the city’s Comprehensive Plan and the King County Countywide Planning Policies, it would take the longest amount of time to implement.

4. Modifying development standards for SR-1 zoning.

This alternative would involve amendments to Kent’s zoning code rather than amendments to



Kent's land use plan map or the King County Countywide Planning Policies. Land use plan map designations and 1-unit per acre zoning would remain in place for all urban separator lands. According to city staff, "It would, however, offer some additional flexibility in development standards within SR-1 zoning districts without modifying the overall allowed density."

Some developers in Kent have described certain components of the clustering requirement in SR-1 zones as cost-prohibitive. The "8-pack" cluster with mandatory 120-foot spacing is cited as frequently making the difference between a development being cost-effective, or not. This requirement, coupled with the 50 percent open space set aside for unconstrained land, can reduce the number of lots that can be achieved when property is subdivided for development, particularly in areas that are substantially constrained by critical areas. This can sometimes push the development below the threshold of profitability. City staff suggests that modification to this requirement could increase the likelihood that developers may be able to move forward with cluster developments, although the materials provided to the Land Use and Planning Board did not identify any builders who concurred with, or disagreed with, that assessment. The 50 percent open space set aside could also be modified to require 50 percent of the entire parcel to be set aside as open space, rather than applying only to the unconstrained areas.

Even though Kent has had mixed results at best in attracting new cottage housing developments, city staff says that code amendments that include provisions for a percentage of cottage housing or attached townhouses in cluster developments could also help to improve profitability and feasibility of development in urban separator

lands.

Existing code includes a provision to allow 25 percent of new subdivision developments in higher density single-family zones to be attached single-family housing such as townhomes, duplexes, or triplexes. Code amendments extending this provision to lower-density single-family zoning districts, including SR-1, could also expand housing variety in urban separator lands without adding additional net density.

5. Adopting or encouraging enrollment in incentive-based programs to preserve urban separators.

This alternative would create new (or promote existing) incentive-based programs to go beyond zoning and regulation of urban separator lands. The purpose of the programs would be to promote the preservation of undeveloped land in urban separators while affording reasonable financial benefits to property owners.

One type of program that could be used would be a Transfer of Development Rights (TDR) program. But there are several challenges to implementing a TDR program in Kent, including the lack of market demand for development rights and the willingness of developers to purchase units from urban separator property owners.

Another incentive-based program would be King County's Public Benefit Rating System (PBRs), which offers a reduction in taxable value for private property that preserves a public use or benefit, including maintaining urban open space, providing an active trail linkage, or protecting significant wildlife or salmon habitat, among a long list of available categories.



## Renton Repeals “Head Tax” Penalty on Businesses Creating Jobs, and B&O Tax Exemption Threshold Reduced to \$500,000

As some Seattle City Council members appear enamored with the prospect of enacting a new “head tax” that penalizes companies for creating jobs as firms expand, Renton has moved in the opposite direction and repealed its existing head tax.

Renton’s head tax required a business to pay additional taxes for every new worker who works 1,200 or more hours per year.

The repeal of this head tax will provide a tax break for more than 1,200 small businesses, while an additional 500 businesses will see a tax increase because of the lower exemption threshold for the city’s B&O tax to make the changes largely revenue neutral.

In addition, the changes also exempt from city B&O tax all nonprofit organizations with federally-recognized 501(c) and (d) status.

Previously, Renton had a multi-level tax structure that included a business license fee, the head tax, and a B&O tax of 0.085 percent on gross receipts more than \$1.5 million annually. Of the 3,700 businesses licensed in Renton, the B&O tax was collected from 450 businesses that have annual gross receipts exceeding \$1.5 million. The head tax was imposed on an additional 1,850 employees. REALTORS® have long referred to Renton’s head tax as a “penalty tax” on businesses that expand and create new jobs.

The state Legislature’s passage of House Bill 2005 in 2017 required the city to participate in the state-sponsored online business license portal, which is not compatible with the city’s head tax. Customizing the system to accommodate the head tax would have increased collection costs for the city. In addition, the B&O tax and the head tax were due

at different times of the year, creating confusion for taxpayers.

To make the repeal of the head tax revenue neutral, the city reduced the threshold for paying B&O taxes from annual gross receipts of \$1.5 million down to \$500,000.

Other cities of comparable size have annual B&O tax thresholds that range from \$20,000 (Olympia and Bellingham) on the low end to \$250,000 (Kent and Tacoma) on the high end. Gross receipts below the threshold are not subjected to B&O tax.

Many cities, such as Auburn, do not have a B&O tax.

But in the other comparable cities which do have a B&O tax, the threshold of gross receipts which triggers tax liability falls somewhere in the middle (between \$20,000 and \$250,000). For example, in Burien, a business must have \$200,000 before it is subjected to liability for B&O taxes.

Bellevue and Bremerton have a threshold of \$160,000. On Mercer Island, it’s \$150,000. The threshold in Seattle and Issaquah is \$100,000.

B&O tax rates in these comparable cities range from Renton on the low end at 0.085 percent, to Bellingham on the high end with a B&O tax rate of 0.44 percent. None of the other comparable cities researched by Renton had B&O tax rates of less than 0.1 percent.

Renton also has an annual cap on the maximum B&O tax liability for a single taxpayer: \$4.42 million in 2018, but the cap is tied to the Consumer Price Index (CPI) for Washington.

## Changes Are Coming to Our Local Consumer Price Index (CPI)

Most everyone has heard of the Consumer Price Index, or CPI. This monthly measurement records U.S. prices for most household goods and services and is used to track price inflation.

To ensure that agreements keep pace with changing market conditions – especially escalating prices – the CPI is often included as an index for increasing payments required in commercial leases, purchase agreements, and collective bargaining COLA agreements. It's even included in some tax exemptions (such as Renton's B&O tax), as is used to adjust payments made by government programs such as Social Security and government pensions.

Now, the Bureau of Labor Statistics (BLS) has announced that our local CPI is undergoing a fundamental change that became effective on Jan. 1, 2018, and which will be reflected in BLS statistical reports beginning in February 2018.

Currently, the BLS publishes a CPI for urban consumers called CPI-U, which covers approximately 87 percent of the U.S. population. The changes that became effective at the beginning of this year mean that the CPI-U will now cover 94 percent of the nation's population. To match the CPI to local conditions, the BLS divides the country up into 27 separate geographic areas. But, beginning in 2018, the BLS has reduced that number from 27 to 23, and one of the affected areas is right here in the Central Puget Sound Region.

Historically, and through the end of 2017, there were two primary sampling units in Washington state:

- Seattle-Tacoma-Bremerton/Washington, which includes King, Pierce, Snohomish, Kitsap, Thurston, and Island Counties.
- Portland-Salem/Oregon and Washington, which includes counties specific to the Portland/Salem area, plus Washington's Clark and Skamania counties.

On Jan. 1, 2018, the Seattle/Tacoma/Bremerton index was refined and renamed as the Seattle/Tacoma/Bellevue index, consisting of King, Pierce, and Snohomish counties. The Washington state index will no longer include Island, Kitsap, or Thurston Counties.

Farther south, the Portland/Salem index will see more drastic changes, according to the BLS. Because the new geographic design and sampling criteria used population numbers as a qualifying factor, and the Portland/Salem index fell below the population threshold, the Portland/Salem index (which included Washington's Clark and Skamania counties) will no longer be published as in the past.

The BLS has an explanatory article on the impacts and anticipated variables associated with the new geographic sampling for the CPI. It is available here: [www.bls.gov/opub/mlr/2016/article/the-2018-revision-of-the-CPI-geographic-sample.htm](http://www.bls.gov/opub/mlr/2016/article/the-2018-revision-of-the-CPI-geographic-sample.htm).

## Public Health Seattle-King County to Allow “Point of Use” Treatment for Water with Arsenic Levels Between 10 and 50 Parts Per Billion

Lynn Schneider, a supervisor with Public Health Seattle-King County's on-site sewage system program in Bellevue, advised the REALTORS® that Darrell Rogers, the department's assistant director, has announced new procedures have been

approved to allow treatment to reduce arsenic levels in private drinking water wells located in King County, but only if the wells have arsenic levels equal to, or below, 50 parts per billion (ppb). Prior to these new rules, for an individual well to obtain



approval as a possible source of water, arsenic levels needed to be below 10 ppb.

Treatment is required for wells with arsenic levels between 10 and 50 ppb. According to the County, the well must not be flushed prior to sampling for water quality.

Arsenic is a naturally occurring contaminant in

some ground water in King County, most frequently found in bed rock aquifers in the central part of the county.

More information is available at [www.kingcounty.gov/arsenic-treatment](http://www.kingcounty.gov/arsenic-treatment), or by contacting Lynn Schneider at [lynn.schneider@kingcounty.gov](mailto:lynn.schneider@kingcounty.gov) or 206.477.2124.

## City of SeaTac Economic Forecast

SeaTac expects continued strong, diversified economic growth and is working to seize the opportunity with its Business Synergy Initiative to connect local businesses to one another, to increase the efficiency of local businesses, to promote further expansion through local collaboration, and in the process to “keep local dollars local” in SeaTac.

The city reports that recent, current, and projected development includes:

- 570 new apartment units;
- 70 new single-family homes;
- 1,400 new hotel rooms;

- 400,000 square feet of new industrial space; and
- 490,000 square feet of new commercial space worth \$465 million, including Project Copper River and the Alaska Air Group HQ Campus.

In addition, city officials estimate the impacts from the city’s current Development Pipeline will include:

- \$9 million in one-time revenue from permits, fees, and construction sales tax;
- \$1.5 million in annual additional tax receipts from lodging, property, and leasehold interests; and
- 1,000 new permanent jobs.

## Federal Way: Crime Down 10 Percent

Experienced REALTORS® know that buyers are drawn to communities with good schools and safe streets. Federal Way schools have taken a giant step forward in the last few years, and now there is more good news for buyers and the REALTORS® who represent them: crime is down in Federal Way.

According to the city, last year in Federal Way the numbers for residential burglary, larceny, vehicle theft, forgery, and vandalism crimes all decreased compared to the prior year. Overall, crime in Federal Way was down 10 percent, especially for what the city identifies as “quality of life crimes.”

According to Federal Way Police Chief Andy Hwang,

“Crime numbers fluctuate for various reasons. There are variable factors that might influence it. As an organization, we are very pleased that our crime numbers are trending downward.”

While overall crime was down 10 percent, motor vehicle thefts were down 17 percent, counterfeit/forgery crimes were down 27 percent, and vandalism decreased by 19 percent. The number of murders was down by 25 percent, and unlike the prior year, none of the killings were random, according to the police.

“Our people have done really good work this year,” said Hwang. “When we identify a problem location

or area, there is some science to what we do, and what we look at. What are the crime trends? What are the issues? We try to focus our energy or resources to that area. I think we have had some positive impact.”

As an example, the city pointed to a pattern of auto theft crimes that city crime analysts were able to identify at the Transit Center. Police suspected the increase might be associated with a small handful

of car thieves who had recently gotten out of jail. Working with King County Metro, Federal Way Police “increased patrols in the area, four people were arrested, and the number of thefts went back down to around zero,” according to Federal Way Police Department spokesperson Cathy Schrock. Using automated license plate readers on three of the city’s patrol cars has also helped curb vehicle theft, said Schrock.

### **SeaTac, Des Moines, Covington, and Tukwila Extend Minor Home Repair Program**

Four south King County cities have announced they will extend their agreement to work together to secure federal Community Development Block Grant (CDBG) funding to provide a multi-jurisdiction program that assists low- and moderate-income households (who earn less than 80 percent of median income) with minor home repairs in their respective cities. The King County Department of Community and Human Services’ Community Services Division will serve as a conduit for the federal funding which the cities have been advised they will receive.

The program is intended to assist homeowners who are having a difficult time maintaining their homes. The program is a tool that the cities can use to

address human service needs involving maintaining a safe house, as well as helping homeowners to address some safety-related code enforcement issues. The service also contributes to a more positive image of single-family neighborhoods, according to the cities.

Last year, in Des Moines alone, the \$29,625 of CDBG funds supported the completion of 19 projects for 16 low- to moderate- income families, including multiple plumbing and electrical repairs, gutter and roof cleaning, grab bars, security lighting, an emergency water line repair, and other necessary repair and maintenance projects that help citizens stay in their homes.

### **Black Diamond Coal Mine May Reopen**

The Pacific Coast Coal Company is continuing to make progress in its efforts to reopen an existing coal mine located just outside the city limits of the town of Black Diamond in south King County. The mine previously ceased operations in 1999.

The company began efforts to reopen the John Henry Coal Mine in 2011, but those efforts were delayed pending an environmental assessment by federal officials. Opposition and protests led by the group Fuse Washington resulted in additional delays in 2014 and 2016.

Fuse has expressed concern about what it says would be significant impacts from blasting, trucking, and burning coal, noise and vibrations, and air quality. Others have expressed concerns about phosphorus and copper reaching nearby fish-bearing streams.

In the meantime, the U.S. Department of Interior completed an Environmental Assessment and concluded reopening the John Henry mine should have no significant environmental impact on the surrounding area. A permit to reopen the mine is still required from the federal government’s Office



of Surface Mining Reclamation and Enforcement.

If the John Henry Cole Mine reopening is approved, Pacific Coast Coal Company plans to mine 85,000 to 95,000 tons of coal annually over six years. The mining would be restricted to approximately 30 acres of a 480-acre parcel of privately owned land where mining first began in 1986.

According to media reports, King County Executive Dow Constantine “has vowed to work with state agencies and Washington’s congressional delegation, as well as the courts if need be, to stop the project.” Constantine said, “I am going to do everything I can, legally and politically, to prevent us from having to suffer the impacts from coal mining in King County.”

In a letter opposing reopening the John Henry mine that was sent to federal officials, the King County Department of Permitting and Environmental Review said coal is the dirtiest and most polluting fossil fuel energy source, with as much as twice the greenhouse gas emissions per unit of energy

produced as any other fossil fuel – contributing to global warming.

One of Pacific Coast’s possible customers for the coal is Ash Grove Cement, located next to the West Seattle Bridge. That company has reportedly used a variety of fuels to generate the 2,500-degree temperature required to make Portland cement, including petroleum coke, coal, natural gas, whole tires, and waste lubricating oil. Media reports indicate that state records show Ash Grove burned 9,712 tons of coal in 2016; 51,278 tons in 2015; 32,308 tons in 2014; and 90,633 tons in 2007.

David Morris, general manager of family-owned Pacific Coast Coal said, “It’s a legitimate business that’s legal.” The property already is extensively disturbed from prior mining and reopening a portion of the landscape to mining is one way to do some of the reclamation work that is required. “We are tiny, the smallest mine in the western United States. This is small potatoes, and short-lived,” he said.

## **The “Hirst Fix” – Important Resources for Your Clients Who Are Buying, Selling or Building a Home Served by a Well**

In January – with strong support from the REALTORS® – Gov. Jay Inslee signed Senate Bill 6091, better known as the “Hirst fix.” The fix could be very important for any transaction involving a home that gets its water supply from a private well.

A 2016 decision by the Washington Supreme Court in the Hirst case (which originated in Bellingham) said local governments could no longer rely on Department of Ecology permit decisions and regulations to determine whether a new home connecting to a well for its water supply would harm instream flows for fish and other environmental values.

Instead, each local government would have to

make its own determination for every new home that needed to connect to a well. Many local governments throughout Washington were unable to comply, so they refused to issue permits for, or severely restricted, construction of new homes served by a well. Some counties even went so far as to impose a formal moratorium prohibiting the construction of any new building that would have to connect to a private well for its water supply.

After months of negotiations (between legislators, the Governor’s office, REALTORS®, environmentalists, homebuilders, tribes, local governments, and agricultural interests), the Legislature finally agreed upon a complex Hirst fix that provides relief for most, but not all, areas of the state. Part of the



reason the fix is so complex is because different areas will have different regulations based on the status of local Growth Management Act plans and on the status of individual watershed instream flow regulations.

Seattle King County REALTORS® wants to make sure members have these resources available to share with their clients who want to investigate how they may be affected by the new law:

- Downloads and resources from Washington REALTORS®, which provide more in-depth information.
  - [www.warealtor.org/government/hirst-decision-update](http://www.warealtor.org/government/hirst-decision-update)
- Washington Department of Ecology's Update on the Hirst fix, including local government contact information by county.
  - [ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Case-law/Hirst-decision](http://ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Case-law/Hirst-decision)

- Washington Department of Ecology's Instream Flow Rule Status Map.
  - [fortress.wa.gov/ecy/wrx/wrx/fsvr/ecylcyfsvrfile/WaterRights/wrwebpdf/wsif.pdf](http://fortress.wa.gov/ecy/wrx/wrx/fsvr/ecylcyfsvrfile/WaterRights/wrwebpdf/wsif.pdf)
- Washington Department of Ecology's Domestic Permit-exempt Withdrawals: New Regulations (2018 Legislation: ESSB 6091).
  - [fortress.wa.gov/ecy/wrx/wrx/fsvr/ecylcyfsvrfile/WaterRights/wrwebpdf/essb6091-dpew-map.pdf](http://fortress.wa.gov/ecy/wrx/wrx/fsvr/ecylcyfsvrfile/WaterRights/wrwebpdf/essb6091-dpew-map.pdf)
- Basin-by-basin breakdown of the applicable exempt well allowances from the Washington Water Policy Alliance.
  - [www.warealtor.org/resources/media/news-articles/2018/01/19/good-news-on-hirst](http://www.warealtor.org/resources/media/news-articles/2018/01/19/good-news-on-hirst)

Questions? Contact Washington REALTORS® Director of Public Policy Bill Clarke at 360.943.3100.

## National News That's Good News for King County REALTORS® and Their Clients

### Flood Insurance Extended

Because of Congress extending the National Flood Insurance Program until March 23, property owners in the Green River, White River, Sammamish River, Snoqualmie River, Raging River, Tolt River, and Cedar River drainages who have mortgages or operating loans that require flood insurance can breathe a little easier – at least for now. If lenders require homeowners or commercial property owners to maintain flood insurance, those loans can go into default if the flood insurance policy lapses because the insurance is not available from the National Flood Insurance Program.

The temporary relief is not limited to just property owners in King County, but applies throughout Washington state, and nationally.

Congressional extension of the National Flood Insurance Program also included \$12 billion that will be available under the Community Development Block Grant (CDBG) program to fund U.S. Army Corps of Engineers flood mitigation programs, as well as an additional \$27 billion in mitigation and resiliency funds to address issues arising from last year's hurricanes.

### Bipartisan Budget Act of 2018

Congress also enacted retroactive tax relief that provides important tax benefits for taxpayers, but only for the 2017 tax year. Specifically:

#### Mortgage Debt Forgiveness

This provision will prevent homeowners who were forced to sell their home through a short sale last year, or who faced a foreclosure last



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year, from being taxed on the “phantom income” they never received when a lender cancelled their debt.

### **Deduction for Mortgage Insurance Premiums**

This provision will allow approximately four million homeowners to deduct the mortgage insurance premiums they paid as part of their mortgage. The National Association of REALTORS® (NAR) estimates that roughly two million homebuyers annually purchase a home using a mortgage that requires mortgage insurance. This provision

helps make homeownership more affordable for first-time and entry-level home buyers.

### **Energy Efficient Commercial Buildings Deduction**

This provision extends the deduction for the cost (up to \$1.80 per square foot) of energy efficient improvements to commercial buildings. Increasing the energy efficiency of commercial buildings not only helps the environment, it saves building owners and tenants money that they can use to grow their businesses and the economy.

## Protecting Your Business

### Elections in 2018

**Laws govern the way in which you conduct your business and affect your bottom line. Laws are made by elected officials. This year, elections will be conducted for state legislative positions and U.S. Congress.**

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. That's why members of the Association review voting records of elected officials, and it's why your REALTOR® colleagues interview candidates running for office.

This year, Seattle King County REALTORS® will act to protect your business by supporting congressional and state legislative candidates who share our REALTOR® values. We will provide an online REALTOR® Voting Guide for the Aug. 7 primary election and will mail you the REALTOR® Voting Guide for the Nov. 6 general election.

### **Schools: Most Did Well at the Ballot Box in February Elections**

Schools are important, not only because they help to define and build strong communities, but also because strong schools support higher resale home values. Seattle King County REALTORS® has the strongest and most active program of supporting local school levy and bond measures of any professional, trade, or industry association in King County.

The Association has a formal process that

includes both a detailed questionnaire and in-person presentations for considering endorsing school funding measures. We provide not only formal endorsements, but also in-kind editorial support and GOTV (Get Out the Vote) activities to encourage REALTORS® to vote. The Feb.13 special election that featured a host of local education funding measures was no exception.

Seattle King County REALTORS® endorsed the Kent School District's two levies on the Feb. 13

special election ballot. The district's Educational Programs and Operation Levy received support from 50.53 percent of the voters, while the Levy for Capital Improvements received 50.02 percent support. In early returns, both measures had been failing, but a late surge of favorable ballots helped lift both measures over the 50 percent threshold required for approval of levies (unlike bonds which require 60 percent voter approval).

Voters also approved REALTOR®-endorsed Educational Programs and Operation Levies in the Bellevue (53.73 percent) and Lake Washington (54.56 percent) school districts.

Educational Programs and Operation Levies also had success in the Federal Way (58.2 percent), Enumclaw (56.63 percent), Highline (58.33 percent), Vashon Island (67.08 percent), Skykomish (58.82 percent), Riverview (52.36 percent), Snoqualmie Valley (51.72 percent), Issaquah (51.28 percent), Shoreline (67.51 percent), Mercer Island (71.69 percent), and Northshore (60.93 percent) school districts.

REALTOR®-endorsed Capital Projects Levies were approved by voters in the Bellevue (51.83 percent) and Lake Washington (55.24 percent) school districts; voters also approved Capital Projects Levies in the Issaquah (54.15 percent), Shoreline (69.09 percent), and Northshore (60.83 percent)

districts. REALTOR®-endorsed School Bus Levy was also approved in the Bellevue (54.89 percent) School District, and the School Bus Levy was approved in the Issaquah (57.31 percent) School District.

The vaunted and highly acclaimed Tahoma School District, which serves the greater Maple Valley area, fared less well. Voters approved none of the district's three ballot propositions: Tahoma's Educational Programs and Operations Levy only received 46.62 percent approval. Its Capital Projects Levy did slightly better at 46.9 percent, but also fell short. Even the district's School Bus/Transportation Levy received only 48.67 percent approval from voters.

Lake Washington's \$299 million bond measure garnered 54.02 percent of the vote to "reduce overcrowding and enhance student learning environments," but fell short of the 60 percent margin required for approval.

The North Shore School District's \$275 million General Obligation Bond fell just short in the King County portion of the District with 59.9 percent approval, but was receiving 62.43 percent approval in Snohomish County, which is likely to be enough to satisfy the 60 percent requirement for approval when the votes from both counties are combined.

### **Good News for Housing Opportunities, Bad News for Patricia "Pat" Pepper: Black Diamond City Councilmember Pepper Recalled by History-Making Margin**

Councilmember Patricia "Pat" Pepper is being thrown out of office by what appears to be the largest margin in the modern history of King County: 66.64 percent.

REALTORS® supported community efforts to recall Pepper after she used her position on the Black Diamond City Council to repeatedly violate state law in furtherance of a concerted effort to stop the

construction of new homes, shopping opportunities, restaurants, parks, and green spaces in the city of Black Diamond.

The recall process began in April 2017 when the King County Prosecutor responded to a petition to recall Black Diamond City Councilmember Pat Pepper. "Recall" is a legal and political process – authorized under Sec. 33, Art. 1, of the Washington



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State Constitution – to remove an elected official from office when the official has violated their oath of office or committed some act or acts of malfeasance or misfeasance while in office.

The Prosecutor's Office prepared a precise ballot synopsis of the recall charges and transmitted them to the King County Superior Court, together with a petition requesting the King County Superior Court approve the ballot synopsis prepared by the Prosecutor's Office and determine the sufficiency of the charges against Pat Pepper.

On May 10, 2017, after holding a hearing on the legal and factual sufficiency of the charges against Pepper, King County Superior Court Judge Beth Andrus ruled that there were charges brought against Pepper which were legally and factually sufficient to justify moving forward with the recall process to remove Pepper from office.

Subsequently, Pepper appealed Judge Andrus' decision to the Washington State Supreme Court. On Oct. 26, the Washington State Supreme Court ruled that three different charges approved by Judge Andrus were both legally and factually sufficient to justify moving forward with the recall, specifically: Pepper's violation of the Open Public Meetings Act; Pepper's violation of her oath of office; and Pepper's failure to pass a city budget as required by state law.

On each of these three charges the Washington State Supreme Court ruled that the allegations against Pepper were serious enough to justify voters recalling Pepper. In addition, the Supreme Court ruled that there was sufficient evidence to support the three charges leveled against Pepper.

Previously, Pepper had attempted to make much of the fact that Judge Andrus had not evaluated the sufficiency of the evidence to support the charges against her. But the Supreme Court found there was sufficient evidence of wrongdoing on three

different charges, effectively neutering Pepper's prior protestations regarding lack of evidence.

If the decision of the Washington State Supreme Court was analogous to an indictment, the recall election approved by the Supreme Court was like a trial on the charges in the indictment – and the decision of voters at the ballot box would be the final verdict.

In the meantime, on Jan. 26 – in an entirely separate lawsuit – King County Superior Court Judge Janet Helson ruled that Pepper, acting in her official capacity as a Black Diamond City Councilmember, broke the law at least six times by violating the state's Open Public Meetings Act (OPMA). The law was clear, and the evidence of law-breaking was "undisputed" on each of the six violations. As a result, Judge Helson ruled that no trial was even needed for a verdict against Pepper on those six counts.

In addition, Judge Helson ruled that Pepper would have to pay a fine of \$500 for knowingly violating the state's Open Public Meetings Act (OPMA), a state law intended to require government officials conduct the public's business openly, not in secret, and with adequate notice to the public.

Finally, Judge Helson ruled that the remaining allegations of law-breaking by Pepper would be resolved at trial in February. To avoid that trial, Pepper cut a deal which ended that litigation.

But with the Supreme Court having ruled on the sufficiency of the evidence and charges against Pepper in the recall appeal, even cutting a deal in the separate OPMA lawsuit was not enough to protect Pepper from having to stand trial at the ballot box before Black Diamond voters.

Shortly after 8 p.m. on Feb. 13, King County Election Officials issued the initial count of the verdict votes in the ballot box trial of Black Diamond City

Councilmember Pat Pepper. In initial returns, 68.27 percent of Black Diamond voters made a decision to throw Pat Pepper out of office, thereby ending any opportunity for her to continue for two more years to use her position as a city council member to knowingly violate the state law, or to refuse to do the work required of city officials under state law, or to rack up damages or legal expenses that would require taxpayers to foot the enormous attorney fees for her illegal conduct. Certified election results reported by King County Elections reveal that 66.64 percent of the voters approved the recall.

With this record-setting percentage from voters, Pat Pepper has been thrown out of office by a larger percentage of voters than any other elected official in the modern history of King County, Washington.

Not even the notorious (and now publicly disgraced) former mayor of Pacific, Cy Sun, was rejected by as large a margin as the initial votes against Pat Pepper. It seems hard to imagine that anyone could have been worse, or been more soundly rejected, than Mayor Sun, who was recalled from office by 65.4 percent of the vote. But Pepper's incredible pattern of lawlessness is generating an even larger response from voters.

It is perhaps worth noting that while countywide voter turnout for the February 2018 special election

was relatively light in King County (just 31.8 percent of voters cast ballots), there was extraordinarily high turnout by Black Diamond voters who were very clear about what they wanted to do in this recall election:

- The total number of votes in this recall election was 19.9 percent higher than the total number of votes cast in the 2015 general election in Pat Pepper's race when she was elected to the council (1,268 to 1,057); and
- The number of votes to recall Pat Pepper was 16.5 percent higher than the number of votes she received in 2015 when she was elected to the council (845 to 725).

If Cy Sun was notorious, Pat Pepper may eventually be regarded by history as infamous for her lawlessness, and the very real damage she inflicted on Black Diamond and its citizens during her two-year tenure on the Black Diamond City Council, including creating city and taxpayer liability for tens of thousands of dollars in legal expenses associated with her unlawful conduct.





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## REALTORS® Political Action Committee (RPAC)



As of the end of February, Seattle King County REALTORS® has raised **\$166,000** for the REALTOR® PAC. **Please invest in RPAC** at [www.nwrealtor.org/government/political-affairs/](http://www.nwrealtor.org/government/political-affairs/).

### RPAC Spring Wine Auction

What's better than investing in your profession? Drinking wine while you do it. Join us for the RPAC Spring Wine Auction to do both!

**April 25, 2018 | 5-8 p.m.**

**Inglewood Golf Club**

6505 Inglewood Rd. NE

Kenmore, WA 98028

**Register online:**

[nwrealtor.com/event/rpac-spring-wine-auction](http://nwrealtor.com/event/rpac-spring-wine-auction)

### NEW! An Easy, Quick Way to Protect Your Business: REALTOR® PAC Online

Introducing a new secure, online REALTOR® PAC (RPAC) investment site that makes it easier than ever for busy REALTORS® to protect their business. We can't all go to Washington DC, the state Capital, or even our City Halls while government leaders are making decisions that affect our industry; but while we're 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.

Visit: [www.realtoractioncenter.com/rpac/?referrer=http://www.nwrealtor.com](http://www.realtoractioncenter.com/rpac/?referrer=http://www.nwrealtor.com)

Admission includes 2 glasses of wine and hors d'oeuvres, and is \$25 if registered on or before April 15. After April 15, admission is \$35.

\$15 of the registration fee will be allocated to the REALTOR® PAC. No refunds.

Attendance is for REALTORS® and REALTOR® Affiliate members. For more information or to become a member, visit [www.nwrealtor.com/join](http://www.nwrealtor.com/join).



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 July 2018. The 2018 VP of Governmental & Public Affairs is Georgia Wall [georgia@avenueproperties.com](mailto:georgia@avenueproperties.com), VP-elect of Governmental & Public Affairs is Lynn Sanborn [lynn@windermere.com](mailto:lynn@windermere.com), staff director is David Crowell [dcrowell@nwrealtor.com](mailto:dcrowell@nwrealtor.com), and our local legislative housing advocates are Sam Pace [sam@sampace.com](mailto:sam@sampace.com) and Randy Bannecker [randy@bannecker.com](mailto:randy@bannecker.com). Please call David at 425.974.1011 ext. 704 if there are any local legislative issues that need our attention.