

# 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 December 2018.**

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## HOUSING SUPPLY

### Persistence Prevails in Black Diamond – New Housing Opportunities Available Now!

New housing opportunities in Black Diamond have been a long time coming, and they're finally here. The first residents of the Ten Trails Master Planned Development (MPD), the McFadden Family, have moved into their new house built by Connor Homes.

Seattle King County REALTORS® has long supported two MPDs in Black Diamond that at full build-out will accommodate more than 6,000 new homes in a housing market that is starved for new single-family housing opportunities.

According to Oakpointe, the developer of Ten Trails, the community was designed using best practices that integrate neighborhoods, a town center, environmentally friendly design, community activities, amenities and different home styles by top builders – including Connor Homes, Ichijo, Lennar and Rudd. A variety of parks and trails are

integrated throughout the community, including two large community parks that feature play equipment, a screen for summer movie nights, plenty of grassy space and miles of trails. High-tech infrastructure for personal, home and office work will be available in every home and the community will have free Wi-Fi.



Image from [TenTrails.com](http://TenTrails.com)

In 2009, with REALTOR® support, the city of Black Diamond passed Ordinance 897 that created the MPD Zoning District where the homes are now being built. Approximately 4,800 homes will be built in Ten Trails, and another 1,200 in the upcoming Lawson Hills MPD.



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Later, REALTORS® testified in support of two development agreements – one for each of the MPDs – that in addition to allowing housing will also provide approximately \$50 million in off-site transportation improvements that will be paid for by the developer to ease congestion on SR 169 that runs through both Maple Valley and Black Diamond, and also on SR 516 (Kent Kangley Road), which runs through Covington and Kent.



Opponents of the development put forward three new councilmembers in an effort to stop it. The voters of Black Diamond elected Patricia Pepper, Brian

Weber and Erika Morgan, who repeatedly used their position as elected officials to violate state law, including the Open Public Meetings Act.

Facing litigation to hold them accountable for their repeated illegal actions, Weber and Morgan chose not to run for re-election to the Black Diamond City

Council. Voters subsequently recalled Pat Pepper from office by the largest margin in the modern history of King County. REALTORS® provided financial support for the recall effort and endorsed three candidates who advocated for the city to conduct its business in a legal manner. Mayor Carol Benson, who advocated for complying with the law, won re-election. Erin Stout and Melissa Oglesbee were elected to replace Weber and Morgan. Chris Wisnoski was appointed to replace Pepper after her recall from office.

These changes in leadership at City Hall have made it possible for the city to honor its legally-binding development agreements, follow the law and facilitate new housing opportunities (both in the MPDs and elsewhere in the city). The city Planning Commission has also been allowed to return to work on finishing the city’s Comprehensive Plan, which Pepper, Weber and Morgan used their majority to stall. When completed, the Comprehensive Plan should put the city in a better position to compete successfully for state grants to improve infrastructure and services.

## More Housing Choices, Greater Affordability – Seattle Accessory Dwelling Units

The Seattle City Council is expected to make significant changes to regulations governing accessory dwelling units (ADUs) and detached accessory dwelling units (DADUs), also called backyard cottages.

The goal is to create more housing choices for renters and specifically, greater affordability. According to the city, if just 5 percent of eligible lots in the city build DADUs it would create about 4,000 housing units. Seattle currently has relatively few backyard cottages.

The city is studying a number of changes through the Environmental Impact Statement (EIS) process. The EIS explores a range of measures from simple

and straightforward to aggressive. Among the aggressive measures is allowing both an ADU and a backyard cottage on the same lot with the primary house and removing the owner occupancy requirement after 12 months.

Here is the summary of changes studied:

- Allow an ADU and a backyard cottage on the same lot.
- Remove the off-street parking requirement.
- Modify the owner-occupancy requirement to allow all units (main house, ADU and backyard cottage) to be rented after 12 months.
- Reduce the minimum lot size for backyard cottages from 4,000 square feet to 3,200

square feet. Approximately 7,300 single-family lots would become eligible for a backyard cottage with this change.

- Modify the maximum height limit for backyard cottages.
- Modify the rear yard coverage limit.
- Modify maximum gross square footage limits.
- Add flexibility for location of entry to a backyard cottage.
- Allow certain roof features that add interior space.
- Clarify standards for projections from backyard cottages.
- Clarify regulations for assess restructuring in required yards.

The final environmental impact statement is expected to be issued in early fall. The council may begin debating changes in October.

Seattle King County REALTORS® will be following council action closely. We are highly supportive of measures to increase housing supply and offer homeowners greater flexibility in the use of their property while maintaining neighborhood character and quality – ADUs and DADUs allow the best of both worlds.

For more information, see the [city of Seattle website](#).

## SIGN CODES

### Sign Code Changes: Covington's Public Hearing Set for September

Upcoming sign code changes in the city of Covington will be important for real estate brokers because they will affect all off-premise commercial signs, including real estate open house signs. The new code provisions will change:

- How many open house signs you can put out,
- What days of the week you can put them out,
- What hours of the day you can put them out,
- Where you can and cannot put them, and
- Whether or not you will be required to have a city permit for each of your open house signs.

In our strong real estate market, brokers have less need for open houses – homes are selling fine without them. But markets go up and down. When this hot market turns, and open houses are once again a critical piece of marketing a home, those open house signs will be very important for brokers, sellers and buyers.

In fact, real estate signs are so important that the United States Supreme Court has ruled that the alternatives to real estate signs are “far from

satisfactory.” The Supreme Court’s statement is important because the availability of satisfactory alternatives is a key consideration in evaluating the constitutionality of city regulations that restrict freedom of speech.

It’s also worth noting that real estate signs are important for Federal Fair Housing laws – including provisions in the 1988 amendments to the Civil Rights Act – and for preventing discrimination in housing. How can signs prevent discrimination? Because anyone who sees the real estate sign can know that the property is available for sale or rent. Moreover, the Supreme Court has also said that the right-of-way (where brokers place their open house signs) is a quintessential public forum.

Here’s what real estate brokers should know about Covington’s changes:

- Right now, the city has a temporary regulation that does not allow any open house signs in the right-of-way. That temporary regulation would be replaced by a new sign code allowing four open



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house signs. The Association of REALTORS® has asked the city for six open house signs, because the research for Covington showed that six turns are often required to reach a home for a buyer coming into the city on Kent Kangley Road, the main arterial street through the city.

- Temporary off-premise signs could not be left out overnight. New construction signs that are put up on Friday afternoon and picked up on Sunday afternoon are a special source of irritation for some members of the City Council. The Planning Commission will likely allow off-premise signs only from sunrise to sunset, or from 9 a.m. to sunset, which makes more sense for code enforcement.
- The seller or real estate broker must be physically present at the home, and the home must be open to the public for viewing while the off-premise open house sign is being displayed. For businesses, the business owner (or an employee) must be physically present at the business, and the business must be open to the public while the sign is up.
- For new residential construction projects in the city, a builder could apply for a signage plan that would be tailored to the legitimate needs of the specific development, and that plan would be reviewed and permitted as part of the development permits issued for the project. REALTORS® suggested that idea to the city because it would allow enough signage to get the properties sold quickly while preventing the use of more signs than needed. That way, sales occur faster, signs are gone sooner and the city receives the real estate excise tax receipts more quickly.
- Initially, the Planning Commission was going to recommend only allowing signs four days per week, but staff has recommended that signs be allowed seven days per

week. REALTORS® strongly supported allowing signs seven days per week.

- Open house signs would not be allowed in the median of the roadway, or on roundabouts. In addition, sellers and their brokers would not be allowed to create a traffic hazard, block driveways or impair use of the sidewalk by pedestrians or wheelchairs. Signs would not be allowed on trees, city signs, utility poles or streetlights. These are typical restrictions that the real estate industry has lived with successfully for many years.
- Finally, temporary off-premise signs would require a permit.
  - o Sign owners (including REALTORS® and sellers) would have to take each of their signs into City Hall once a year to likely pay a fee for the sign and obtain an annual permit for the sign.
  - o The permit would be a little sticker that would be attached to the backside of the sign. The permit would allow the city code enforcement officer to know who owns the sign, whether or not the sign exceeds the number of signs allowed by the city and how to contact the sign owner if there is a violation of the sign code.
  - o The Association of REALTORS® has suggested a detailed alternative to requiring a permit. The REALTOR® alternative would require significantly less city staff time, and also facilitate enforcement of signs that have been placed illegally.

The city of Covington Planning Commission will be holding a Public Hearing at Covington City Hall in mid-to-late September to hear from the public and affected stakeholders on the proposed changes to the city's sign code. The City Council gives great weight to recommendations from the Planning Commission on this issue, so the council's

final decision later this year will likely reflect the Commission's recommendations.

Many cities are reviewing their sign codes right now because of United States Supreme Court Case *Reed v. Town of Gilbert* regarding church signs in which the Court said that content neutrality is required for noncommercial signs (such as political and religious signs).

Other cities are leaving their existing real estate

sign codes in place because several federal courts of appeal (including the Ninth Circuit Court of Appeals) have held that the *Reed* case does not apply to commercial signs. Real estate signs are commercial signs because they propose, invite or suggest a commercial transaction. A White Paper from First Amendment attorney Judy Endejan supports that approach, and Seattle King County REALTORS® shared this legal analysis with the cities.

## TAXES

### Seattle Income Tax on Appeal

Last year, the Seattle City Council unanimously approved an income tax on Seattle residents by applying a 2.25 percent tax on total income above \$250,000 for individuals, and above \$500,000 for married couples filing their taxes jointly. The tax would include unearned income, which means equity gains from home sales would count toward total income.

Last November, King County Superior Court Judge John Ruhl struck down Seattle's income tax ordinance. The legal issues that Judge Ruhl needed to decide started with the statutory challenge – that the ordinance violated RCW 36.65.030, which prohibits a tax on net income. He rejected the claim that the tax is really an excise tax on the privilege of living in Seattle, bolstered by the fact that the ordinance itself says that it's an income tax. He also affirmed that it is indeed a tax on net income. (Although it is true that net proceeds is not synonymous with net income, a total income figure that includes net proceeds necessarily reflects the result of a netting process, and thus is net income.)

Judge Ruhl also concluded that the city needed explicit authority to impose a tax, and that none existed. On these grounds, Judge Ruhl granted plaintiffs' motion for summary judgment and struck

down the income tax ordinance.

Having found that the tax violated state law, Ruhl chose not to look at the larger constitutional question of whether income is a form of property. There is binding state Supreme Court precedent finding that it is, however; the Supreme Court could overrule its own prior decision, but a lower court cannot and is bound to follow it.

The city of Seattle is appealing Judge Ruhl's decision to the state Supreme Court. The Court may choose to hear the case or send it to the State Court of Appeals. Action is expected in September.

For the city to win its appeal, it must jump two hurdles. First, it needs to convince the court that its income tax doesn't violate the state law prohibiting a tax on net income – or alternately, that the law was illegally constructed and should be tossed out. If it wins that claim, it must then argue that previous state Supreme Court rulings that income is property were wrongly decided and should be overturned, so that its income tax doesn't run afoul of the state constitution's requirement that property be taxed uniformly (the city's income tax excludes an individual's first \$250,000 of earnings). Judge Ruhl didn't address the question of whether



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income is property (he didn't need to), but if he did he most likely would defer to the past Supreme Court precedents since only the Supreme Court can overturn its past decisions – and the Court of Appeals would face the same restriction).

Seattle King County REALTORS® is collaborating with the Rental Housing Association of Washington on an amicus (friend of the court) brief in opposition to the tax.

## King County Land Conversation Initiative

For more than 12 months, Seattle King County REALTORS® leadership served on the King County Land Conversation Advisory Group to assist the county in structuring an extension of Conservation Futures Tax. The tax was enacted in 1982 to purchase and protect more than 100,000 acres of forests, shorelines, greenways and trails, including Seattle's Duwamish Head Greenbelt, development rights in the Snoqualmie Forest and Puget Sound shoreline in Burien. It is currently assessed at 3.8 cents for every \$1,000 of assessed property value.

Seattle King County REALTORS®, in collaboration with the Master Builders Association, urged that preservation of lands come with a no net loss of buildable lands, given the severe housing supply shortage in King County.

The County Executive and Council agreed to selling more bonds, secured by existing tax levels. This financial tool will secure about \$148 million over four years for land acquisition.

Seattle King County REALTORS® successfully cautioned the county against increasing the rate of the tax or seeking an expansion of the REET to fund new land acquisition. Additionally,

Seattle King County REALTORS® and the Master Builders Association will work with the county to balance preservation with new housing opportunities.

## Seattle Jobs Tax

Last May, the Seattle City Council imposed a widely publicized and unpopular \$48 million tax on jobs that would have taxed companies with over \$20 million in revenue to fight homelessness. Immediately, the business community, neighborhood groups, REALTORS® and the building and construction trades began a signature gathering effort to refer the tax to the voters in the fall. In less than 10 days, it became clear the required number signatures would be easily gathered to place the matter on the ballot.

adequate supply of housing – ownership and rental – to accommodate the new jobs. If Seattle and the larger region established a level of residential zoned capacity that meets demand, home price and rental price appreciation would moderate. Additionally, REALTORS® noted the businesses below the threshold will be impacted because they will have fewer customers to serve. Some real estate brokerages would also have been impacted by the tax.

Seattle King County REALTORS® opposed the tax, citing that jobs are the lifeblood of our region and that economic prosperity is hard to establish and cannot be taken for granted. The Association further argued that the root cause of homelessness is not job creation, but a failure to enable an

In June, less than four weeks after the City Council passed the tax, the council announced a special meeting to repeal the tax.

Hurried public notice of the public meeting may have violated the Washington Open Public Meetings Act. There was speculation that the

Council repeal of the tax would be invalidated, so the referendum campaign filed the signatures with the City Clerk to ensure that if the repeal is invalidated, voters will still have a chance to decide

its fate. It appears the repeal will stand, even if the Council was found to have violated the Washington Open Public Meetings Act.

### The Culverts Case – Will More New Property Tax Increases be on the Table?

In 2001, 21 Pacific Northwest Indian tribes filed a lawsuit in federal district court seeking a ruling declaring that Washington State has a duty to preserve fish runs and habitat sufficient for the tribes to earn a moderate living. The United States government joined the tribes in their lawsuit, which specifically targeted state-owned culverts that impede the migration of salmon and other anadromous fish.

Because the 2001 litigation targeted culverts (most of which run under state and city roads), the 2001 lawsuit has come to be known as the Culverts Case.

The state was supported by cities, the Association of REALTORS® and others who filed amicus (friend of the court) briefs to give the courts additional context regarding the nature of the larger public's interest in the litigation.

In 2007, the federal District Court ruled the culverts contributed to declines in salmon runs, and that the state was in violation of its obligations under the tribes' treaties.

Then, in 2013 the District Court issued an injunction ordering the state of Washington to increase its efforts in removing culverts blocking or impeding fish passage. The Court ordered the state to replace the culverts with the worst impacts on fish habitat by 2030.

In 2016, the Ninth Circuit Court of Appeals upheld the District Court's decision imposing the injunction. The tribes won a final victory on June 11, 2018, when the United States Supreme Court voted 4-4 not to review the matter further.

The result is that almost all of the culverts constructed by the state in Western Washington must be fixed within the constraints of a very aggressive timeline, and without any resources dedicated to that effort.

Some of the initial preliminary estimates for the culvert retrofits-reconstruction indicate the costs are likely to be in the neighborhood of \$5 billion.

That's more money than was required to fund the most recent component of the McCleary fix passed by the legislature in 2017 to meet the state's responsibility to fully fund K-12

basic education. The legislature relied on property taxes for McCleary, much to the consternation of property owners in high-value areas.

The Culverts Case could end up being a source of similar financial heartburn for legislators and property owners (and also for the Department of Fish and Wildlife, the Department of Transportation, the Department of Natural Resources and Washington State Parks), and that's without taking into consideration how cities will attempt to fund their likely responsibilities now that the decision has become final.

According to the Association of Washington Cities



Fingerling migrating downstream



Adults migrating upstream to spawn



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(AWC), there's wide belief that the resolution of this case could ultimately point the way for the requirements to fix culverts constructed by cities and counties.

The Municipal Research Services Center (MRSC), relying in part on information from AWC, has advised local governments in the Western Washington region that they should consider how their infrastructure and land use policies may affect anadromous fish and take measures to remove impediments and improve habitat where possible. The MRSC said local jurisdictions will want to continue working toward increased regional and statewide coordination on habitat restoration efforts as well. In particular, the MRSC pointed to the importance of:

- Low impact development – runoff reduction
- Green communities and building design
- Sustainable development and smart growth

In support of their case, the tribes relied on a 1974 decision by Judge George H. Boldt in the case of U.S. v. Washington (which has since become known commonly as the Boldt decision) and the Stevens Treaties of 1845 and 1855 between the Tribes and the United States.

The Boldt decision interpreted the tribes' rights under the Stevens Treaties to include a right to catch up to half the fish in their traditional waters. The tribes also became co-managers of the fishery with the state of Washington.

## Sound Transit: Runaway Cost Overruns Exacerbate Tax Fatigue



In the wake of tax fatigue that continues to linger following McCleary fix property tax increases in areas with high home-values, and voter surprise at the impacts of ST-3 car-tab fees, Sound Transit's announcements of hundreds of millions in cost overruns on light rail projects not yet under construction is not sitting well with

homeowners and would-be buyers.

ST-3 is a voter-approved \$54 billion measure that included a new property tax, as well as increased sales taxes and vehicle (car) tab fees.

In late July, Sound Transit announced the cost to extend Sounder light rail service 7.8 miles from SeaTac to Federal Way had increased by \$460 million, pushing the cost of the project to \$2.54 billion, which is \$325 million per mile.

When ST-3 was approved by voters in 2016, the agency said extending light rail to Federal Way would only cost \$2.08 billion.

Sound Transit attributed the hundreds of millions in cost overruns (on a project that has not yet even broken ground) to the price of labor and materials going up. The agency said right-of-way acquisition costs and relocation costs have also increased.

This latest increase (of nearly \$60 million per mile) comes as Sound Transit prepares to begin construction of the southward extension more than a year from now in the fall of 2019. The agency hopes the southward expansion will be completed by 2024, and include new stations at:

- South 236th Street and Pacific Highway South

- in Kent (including 500 parking spaces);
- South 272nd Street near Interstate 5 in Kent (including 1,100 new parking spaces); and
- South 320th Street at the Federal Way Transit Center (including 1200 new parking spaces).

However, without a federal grant to help pay for construction, Sound Transit said it might need to delay the 2024 opening date.

### **Kent: Council Poised to Raise Some 2019 B&O Taxes to 100 Percent of State Max, Other City B&O Taxes Would Increase to 80 Percent of Max**

Late last year, led by then City Council President (now Mayor) Dana Ralph, the Kent City Council increased the square footage portion of the city's B&O tax by 100 percent.

Then, the Council increased the city's portion of property tax bills by 38.8 percent in a single year – with no clearly delineated expenditure plan in place for the money. Finally, just days before approving the massive increase in property taxes, the Council earmarked the funds for unspecified capital expenditures.

In the meantime, the council had also changed its policy regarding the amount of the city's financial reserves. Instead of keeping reserves equal to 10 percent of the city budget, the council changed the policy to require reserves equal to 18 percent of the budget. But revenues have exceeded city forecasts, so the city is now sitting on a few million dollars of excess cash above the 18 percent it set aside for reserves.

Despite having increased city reserves from 10 percent of its budget to 18 percent and having a few million dollars more than 18 percent available in excess revenues because tax collections exceeded revenue forecasts, the council indicated on July 13 that the city continues to face a "fiscal cliff" that necessitates raising B&O taxes even higher. The city says its fiscal cliff is mostly the result of the following:

- \$4.7 million per year in annexation sales tax credit revenues that from the beginning were

scheduled to end in June 2020 (for the 2010 Panther Lake annexation). The city promised not only a police station, but also significant increases in the number of police officers serving the Panther Lake area when the annexation occurred. That police staffing didn't happen; the city spent the money elsewhere.

- Projected loss of about \$5 million per year in Streamlined Sales Tax mitigation. Those funds were promised in perpetuity by the legislature to offset revenue lost by the city of Kent when the legislature changed who receives sales tax on purchases made by out-of-city customers. Previously, the city received those sales tax revenues. Under the national Streamlined Sales Tax program approved by the legislature, local governments where customers receive their goods now get those revenues.
- Finally, the city says its expenses are growing about \$2 million a year faster than revenues, which they say is due to the property tax limitation that prevents the city from increasing total property taxes by more than 1 percent annually to keep up with inflation.

REALTORS® and the Chamber of Commerce have repeatedly expressed concern that:

- The city's revenue projections do not include revenues from the Remote Sellers, Referrers and Marketplace Facilitators Act (also known as the Main Street Tax Fairness Act) approved by the state legislature on July 7, 2017.
- The city's projections have broken out lost revenue, but not the revenue windfall created



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by transferring fire department costs to the Regional Fire Authority – and the value of that revenue windfall has continued to grow each year.

- The City Council approved the appointment of a Financial Sustainability Task Force to identify ways to address the fiscal cliff but has repeatedly refused to actively attempt to implement the recommendations of its own task force.
- Rather than seeking to share the burden of addressing the fiscal cliff fairly and equitably among taxpayers (as supported by the city’s own Financial Sustainability Task Force), the City Council appears poised to instead hit the business community with the entire responsibility to shoulder the heavy financial lift – largely because targeting the business community does not require councilmembers to seek voter approval.
- When the City Council approved a 100 percent increase in the square footage portion of the B&O tax in late 2017, Bill Boyce – now the Council President – expressed his reservations and indicated that while he would vote for the 2017 increase, he would not be willing to approve future increases in the B&O tax to address the fiscal cliff. However, the Council’s minutes from its July 13 meeting state on page 3, “Councilmembers all expressed their support

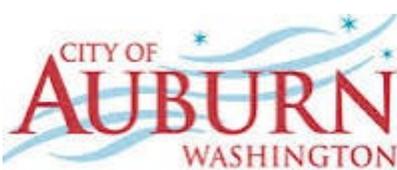
of raising B&O taxes as presented.”

- The city campaigns for voter-approved revenue increases (offered to provide fairness to the business community by spreading the burden to finance city operations more broadly) have been set up for failure with unrealistically short, under-funded, narrowly based efforts that stand in stark contrast to the kinds of campaigns City Council members and the Mayor have run for election to the positions they now hold as elected officials.
- Finally, the City Council has been unwilling to pursue more broadly-based revenue sources – such as car tab increases, which its Financial Sustainability Task Force recommended – that the council has existing authority to enact without voter approval.

In its meeting on July 13, the City Council appeared unwilling to consider staffing reductions for next year, although the Mayor indicated it might be necessary to ask the Council to cut as many as 18 jobs beginning in 2020.

Mayor Ralph will present her proposed budget, recommended staff reductions (if any) and proposed tax increases to the full Kent City Council on September 20. The Council will make a final decision before the end of the year.

## Auburn: City Renews Sales Tax Exemption Program to Encourage New Construction



For more than a decade, REALTORS® have pointed to the city of Auburn as an example of best practices to support

and incentivize new construction and new private investment in the city.

One example involves an ordinance (#6376) originally passed on September 19, 2011, which established a Construction Sales Tax Exemption

program that was recently renewed by the city in ordinance #6686.

The ordinance allowed for a rebate of city sales taxes paid on construction materials, fixed equipment, machinery installation and labor associated with construction activity on commercial projects in one of six zoning districts that qualify for the exemption. Eligible projects qualify for an exemption of up to 20 percent of the local sales and use taxes paid to the city of Auburn, not to exceed \$100,000.

While formally called a sales tax exemption, the method for implementing the program is to issue a rebate after taxes have been paid. Ordinance 6376 also included a sunset provision.

On October 7, 2013, the Auburn City Council adopted Ordinance 6482, which amended the program to include residential buildings in the DUC zone that include a minimum of 50 dwelling units. FNW development company constructed The Trek apartment building under this provision. The city provided a rebate of \$24,333, which was equal to 20 percent of its share of construction sales taxes

paid by FNW on the housing construction project.

City staff indicated the mere existence of the Construction Sales Tax Exemption program delivers a strong message to the development community that the city of Auburn offers a friendly business climate for developers who would like to pursue certain housing, mixed-use and commercial projects. Additionally, it is an important part of a larger package of incentives that developers are able to pick and choose from in Auburn when determining where to site future projects.

## OTHER CITY ACTIONS

### Brokerage Business Licenses – Cities Are Updating Business Licensing Ordinances

In response to a change in state law, many cities are updating their general business licensing ordinances for all businesses. Some real estate brokerage firms may be among the businesses noticing the changes, depending upon whether or not their city's business licensing program already complies with the new requirements. For most cities, changes will be required starting January 1, 2019.

The state legislature is requiring a uniform definition of what it means to “engage in business” in the city, establishing uniform exemptions from licensing requirements and mandating all cities and towns to use the state's Business Licensing System (BLS) so that businesses will have a one-stop shop for obtaining all new city business licenses and all general business license renewals.



The Washington State Legislature enacted Engrossed House Bill (EHB) 2005 during the 2017 legislative session. The law – now RCW 35.90 – took effect on July 23, 2017.

The purpose of EHB 2005 was to help simplify

the administration of city general business license programs, which is intended to enhance the business climate in Washington State.

Generally speaking, EHB 2005 establishes two mandates upon local government that have a program of general business licensing. Each mandate has a different compliance deadline. The two mandates are described as follows:

1. By January 1, 2019, cities and towns are required to amend how their local code defines engaging in business. This definition is important because it determines the types of businesses that are required to obtain a business license. Currently, every jurisdiction has its own definition for what it means to engage in business within its boundaries. The purpose of this legislative mandate is to provide the business community with a standardized definition. That will level the playing field between communities and remove the complexity for a business that is trying to understand the different sets of rules in all of the cities and towns in which they operate.

- Cities and towns may only impose licensing



requirements upon individuals or companies engaging in business within the city, as defined in the state’s model ordinance.

- For firms that engage in business within the city but are not physically located within the city, the new law establishes a dollar threshold below which the businesses are partially or fully exempted from local licensing requirements. The minimum threshold of business activity that will trigger a licensing requirement will be \$2,000, although cities may adopt a more business-friendly ordinance with a higher exemption if desired. Below the exemption threshold, cities must either:
  - o Exempt businesses from the licensing requirements entirely, or
  - o Require licensing but do so without charge to the businesses.
- 2. By 2022, cities and towns are required to administer their business license program through the state’s Business Licensing System (BLS). Cities and towns already participating in the state’s BLS program are required to comply with the new law by October 17, 2018.

The purpose of this requirement is to ensure that the business community is provided a one-stop shop for obtaining and renewing all of their business licenses statewide. Instead of a franchise business having to obtain or renew 40 separate business licenses in 40 separate communities, this mandate on local governments will allow the

business to obtain or renew all those business licenses through a singular portal.

The legislation does not eliminate a local municipality’s right to collect their adopted business license fees or remove the local municipality’s authority to approve or deny a business license. City fees will be paid through the state Business License System (BLS) and transferred to the city. New applications are submitted through the state BLS and routed to the city for review (in the same fashion that the state routes a liquor license application to the city before it will issue the permit).

The Legislature specifically required cities to work with the Association of Washington Cities (AWC) to develop a model ordinance that cities can use to satisfy the new requirements. AWC was required to complete its work on the model ordinance by July 1, 2018. It did so, then distributed the model ordinance to cities and towns throughout the state, which is why local real estate firms may now notice cities taking action to amend their codes regarding the licensing of local businesses.

**Helpful links:** These links were provided to local jurisdictions by AWC, which represents municipalities before the legislature, executive branch and regulatory agencies in Washington state.

[Engrossed House Bill \(EHB 2005\)](#)  
[AWC Model Business License Threshold Language](#)  
[AWC Webpage Summary Article](#)

## Aviation Infrastructure Changes Could Be Helpful for Relo Buyers Flying in to Find New Home

It’s no secret that the number of travelers using Seattle-Tacoma (SeaTac) International Airport has been increasing at a rate that’s among the highest in the nation. One result is that the growing “sardine can” congestion inside the airport has become an unflattering first impression for some relocation

buyers arriving at SeaTac by airplane.

But two things are in the works that could keep the pain from getting worse, and even have the potential to make things better for everyone – including relo buyers – traveling in and out of

## SeaTac International Airport.

The first, called NorthSTAR, is a major expansion of the number of gates available to Alaska Airlines at the airport's North Terminal.

The project, which began in 2016, will extend the building 240 feet to the west while also modernizing and upgrading the facilities in the existing part of the terminal.

The improvements will be available to travelers in two phases: the first phase will open during the second quarter of 2019. The remainder of the project is scheduled to be completed by 2021. The project will include:

- 20 gates operated exclusively by Alaska Airlines;
- Upgraded escalators and elevators from the train level to the main concourse;
- Increased reliability and speed of baggage transfers;
- Additional passenger waiting areas, together with robust Wi-Fi service and more electrical outlets available in the seating areas at the gates; and
- More restaurants and shops, including a signature premier restaurant on the third floor with what Alaska and Port of Seattle officials say will be "dramatic airfield views."



The second item involves efforts by the Puget Sound Regional Council (PSRC) to improve planning for air travel into, and out of,

the four-county area that includes King, Pierce, Snohomish and Kitsap counties.

The PSRC expects to receive \$935,000 in grant

revenues from the Federal Aviation Administration (FAA) for aviation planning. The PSRC is including those funds in its budget in anticipation of hiring a consultant at a cost not to exceed \$1.25 million to assist PSRC staff in preparing a Regional Aviation Baseline Study during fiscal years 2018-2019. The scope of work identified for the study includes:

- Project administration and management
- Existing conditions and trends
  - How airspace is currently configured within the region to serve each airport.
  - Current challenges facing operation of that airspace given regional population and economic growth pressures
- Aviation issues, needs, challenges and opportunities
  - Existing airport master planning and air cargo study efforts
  - Future regional aviation needs vis-à-vis existing and future capacity by activity type (both landside and airside)
  - Highest priority challenges, and implications of approaches to address them
  - Potential scenarios that could emerge based on the study's findings
  - Issues that need further analysis
- Final report and presentation

The undertaking will be a cooperative effort involving the FAA, airport operators and the WSDOT Aviation Division. They will be charged with the responsibility to develop a clear picture of the aviation activities and needs in the Central Puget Sound Region and set the stage for future planning.

New commercial service is expected to begin at Paine Field in Everett in late 2018. In addition, master planning is already underway at several airports including King County International Airport (Boeing Field), Renton Municipal Airport, and SeaTac International Airport. Overall growth in



# Issues & Impacts

activity at the region’s airports is increasing due to the strength of the regional economy.

PSRC representatives said, “Now is the time to identify how future demand for air transportation will be met. The baseline study is expected to produce information critical for understanding the region’s aviation needs and options for policy makers to consider for meeting those needs in the future. This will be the first phase of potentially more

focused studies on specific areas of emphasis. This study is not intended to provide final solutions but is intended to inform follow-on actions...It is a timely opportunity to understand the dynamics of the region’s growing aviation activity, the unique role of the regional aviation system in supporting this global center for aerospace manufacturing, the economic impact of the region’s airports, and community issues and concerns with airport activities.”

## Maple Valley Summit Park: Largest City Project Since Incorporation in 1997

The city of Maple Valley has long been held in high regard by local REALTORS® for its quality of life, strong neighborhoods and great schools. Now, brokers representing buyers and sellers have an additional reason to feel good about the city.

Maple Valley has broken ground – and on July 9 awarded Terra Dynamics of Algona the contract to build – a \$9.4 million, 14-acre Summit Park project adjacent to Tahoma High School. It’s the largest city project since Maple Valley was incorporated in 1997.

Summit Park, which is located at 23499 SE Tahoma Way, is on 22.75 acres of land that was purchased from the Tahoma School District in 2006.

The city bought the property with the hope that it would someday be in a position to develop the site into a community park.

When the school district began moving forward in 2013 with plans for a new Tahoma High School and discovered they needed a little more land, negotiations were commenced with the city for a portion of the property. The city and school district settled on a sales price and also entered into an interlocal agreement that allows for shared use of the new access road and parking lot built by the school district, which could be used by the public after school and on weekends.

After two failures to obtain voter approval of bond financing for the park, the city found a way to put together a potpourri of funding sources. The funding package includes city park development funds, real estate excise taxes (REET 2), park impact fees, proceeds from the sale of surplus city property, Councilmanic debt that does not require voter approval, \$535,000 in grant funding from King County and state grant funds approved as part of the state’s 2018 capital budget. Those state funds will be provided to the city through the Washington Recreation and Conservation Office.



City officials are hopeful that by summer 2019 the park will be opened for use by city programs, local youth leagues, Tahoma School District, and for hosting tournaments.

The Community Park will feature two rectangular synthetic turf multi-purpose lighted athletic fields, one synthetic turf lighted softball field, an off-leash dog park, a playground, a skate park, a basketball/pickleball court, a restroom/storage building, four

picnic shelters and additional on-site parking. The city is also working with King County Parks to develop a trailhead connection to the Cedar to Green River Trail that will facilitate pedestrian connections through the site.

### SeaTac: Council Takes Up Issue of Through Hauling to Protect Neighborhoods



Over the years, residents of SeaTac have expressed their concerns to the City Council about through hauling (pass-through commercial vehicle traffic) within their neighborhoods, and the associated safety and infrastructure degradation issues that arise from this activity.

As a result, in July the SeaTac City Council's Public Safety and Justice Committee began considering a draft ordinance to protect residential neighborhoods by addressing the issue.

Neighborhood roadways are designed to accommodate mostly light duty vehicles weighing less than 10,000 pounds, and occasionally medium duty vehicles weighing between 10,000 and 26,000 pounds.

Frequent use of residential roadways by heavy duty vehicles weighing more than 26,000 pounds will rapidly accelerate deterioration of the pavement and increase the likelihood of damage to ancillary roadway infrastructure because of insufficient room to accommodate safe turning movements.

Upon occasion, heavy duty vehicles have legitimate reasons to access residential streets – most often to deliver, receive or exchange goods and services. Additionally, school buses and garbage trucks are also frequent and accepted users of neighborhood streets.



The most common approach to reducing through hauling is to adopt an ordinance that establishes notice, weight limits, exemptions, permitting and penalties that discourage continued use of the roadway by heavy duty vehicles that are not exempt. Enforcement by police is typically necessary to ensure compliance with such an ordinance.

### On-Site Sewage (Septic) Systems: Battles Against Health Department Money Grabs Continue

Betsy Howe, founder of Citizens Optimizing OSS Management Washington (COOM-WA) and a board member of the Citizens Alliance for Property Rights, disclosed that after 15 years the state of Washington is finally commencing a process to revise its administrative rules regarding on-site sewage/septic systems (OSS). The action is in response to pressure from state legislators.

The legislators' directive was in response to the vocal outrage from OSS owners, and continued pressure from property rights advocates, that reached a tipping point when Seattle-King County Public Health officials sought new unjustified taxes on septic system owners and took what appeared to be retaliatory action when this money grab was unsuccessful.



Howe expressed concern that the deck is being stacked by public health officials who want to use the Department of Health (DOH) rules revision process to make it easier for local health departments to enact and enforce stricter rules that will garner new streams of revenue for the agencies. Howe points out that the stakeholder committee being convened to review the state's OSS rules will be comprised of:

- 50 percent government officials
- 30 percent OSS industry representatives, and
- 20 percent "other."

"Other" includes representatives from environmental groups, real estate, Citizens' Alliance for Property Rights (CAPR) and COOM-WA.

Howe says that notwithstanding studies to the contrary by the federal Environmental Protection Agency (EPA) and other scientists, the state DOH fundamentally believes OSS are nasty polluters and must be tightly regulated. CAPR and COOM-WA are united in demanding scientific proof that OSS lead to contamination and pollution. "Making statewide policy cannot be made based upon

anecdotal stories of random, broken OSS," said Howe.

The State Department of Health determined (hand-picked) who would be allowed to participate as a member of the Administrative Rules Revision Committee. By making a public records request under RCW 42.56 (the Public Records Act), Howe said she discovered that "20 people had requested 'Stakeholder' status but were denied. Within that list were people with great credentials and insight." Howe said she sent a letter to the State Board of Health citing the lack of balance, and constraints on participation by affected stakeholders, as an example of the state's lack of good faith in the process.

The Rules Revision process is scheduled to take three years. Howe said, "Given the obvious bias and the extended timeframe, COOM-WA has every intention of pursuing legislation during the 2019 session." Brokers, buyers and homeowners will be able to find periodic updates in that regard on the following websites: [COOMWA.org](http://COOMWA.org) and [CAPR.us](http://CAPR.us). In addition, Howe said she can be reached at (253) 569-9833.

## 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 for state legislative positions (all House members and half of Senate members). The general election is on November 6. 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 interviewed candidates running for office.

This year Seattle King County REALTORS® will take action to protect your business by supporting congressional and state legislative candidates who share our REALTOR® values. We will mail you the REALTOR® Voting Guide for the November 6 general election.

## 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 DC, 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.

Visit: <https://realtorparty.realtor/rpac/?referrer=http://www.nwrealtor.com>

As of the end of June, Seattle King County REALTORS® has raised **\$252,000** for the REALTOR® PAC. **Please invest in RPAC** at [www.warealtor.org/government/political-affairs/](http://www.warealtor.org/government/political-affairs/).

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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 December 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.