

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, with any local legislative issues that may need our attention. **The next issue will be released in April 2019.**

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UNLOCK THE DOOR TO AFFORDABLE HOMEOWNERSHIP

REALTORS® Launch Massive Campaign to Improve Affordable Homeownership Opportunities

Washington has a systemic housing crisis. We don't have enough housing for everyone who needs a place to live, and for the last eight years the situation has only grown worse.

The central Puget Sound region, particularly King County with its huge job growth, is ground zero for would-be home buyers and renters alike who have been priced out of the housing market. For the homeless and households in need of subsidized housing, the situation is severe.

REALTOR® Association leaders have concluded that fixing the problem will require action by the state Legislature in the next legislative session, which begins in January. But achieving a legislative solution in Olympia will require broad-based

support from members of the public, as well as a diverse coalition of housing advocates to maintain focused pressure on legislators in order to obtain passage of consensus solutions.





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To make that happen, on the eve of the 2019 legislative session Washington REALTORS® will launch a massive, multifaceted campaign called **Unlock the Door**.

Unlock the Door will be the primary tool for presenting our legislative solutions to legislators, the media and the public

Campaign goal: The goal of the Unlock the Door campaign is to make **affordable homeownership opportunities** the #1 issue for legislators during the 2019 legislative session.

The idea of affordable homeownership opportunities is the overarching theme for framing our messages regarding solutions to the state's housing crisis. These solutions are centered around three key issues: condominium liability reform, Growth Management Act (GMA) reform and expanded use of the state's Housing Trust Fund.

Campaign objective: The campaign objective is to obtain public involvement and support in December and January and use that momentum to secure wins from legislators on REALTOR® legislative priorities early in the 2019 legislative session (January, February and March).

Campaign resources: Washington REALTORS® will be utilizing highly capable campaign services and activities, including National Association of REALTORS® (NAR)'s Real Strategies (big data), statewide polling on housing issues, message development, earned media (news stories reported by the press) and a new website: UnlocktheDoorWA.com. The website, which went live before the Washington REALTORS® fall conference in September, allows members of the public to share their stories about how the state's housing affordability crisis has affected them, their family, their friends and their clients.

As we get closer to the start of the 2019 legislative

session, content will be added to the website that identifies solutions that will help to solve the housing affordability crisis. In addition, the campaign will also utilize paid media to share those personal stories volunteered by members of the public.

Financial resources include \$250,000 that has been approved by the Washington REALTORS® Executive Committee, \$750,000 from the National Association of REALTORS® Issues Mobilization Committee and \$75,000 from the Northwest MLS.

The campaign is also accepting contributions from local and state home builder organizations, multiple listing services, nonprofit housing providers and advocates and other stakeholders.

Related items

- While the primary focus of the campaign will be affordable homeownership opportunities, the campaign will also contain elements related to homelessness and low-income housing – including the fact that with support from the Association of REALTORS®, legislation was passed last session (which took effect in July 2018) that dramatically increases funding available to deal with homelessness. The legislation includes an increase in the document recording fee.
- In 2017, the Legislature passed “tiny house” legislation that prevents cities from prohibiting tiny homes. We don't yet know whether other tiny home-related bills will be proposed during the 2019 legislative session. Some tiny home projects are already moving forward in King County cities, such as Auburn.
- We expect the following individuals will step up and take leadership roles on housing issues during the 2019 legislative session:
 - o Democratic Reps. Larry Springer, Eric Pettigrew and Tana Senn.

- o Democratic Sens. Jamie Pedersen of Seattle and Andy Billig of Spokane. Sen. Billig was recently selected by Senate Democrats to fill the vacant position of Majority Leader in the state Senate. Sen. Pedersen is expected to remain chair of the Senate Law and Justice Committee in which many of the housing-related bills will be heard and considered.
- o Rep. Frank Chopp, who represents the 43rd legislative district in Seattle and has served as Speaker of the House of Representatives since 1999, announced in late November that he will continue to serve in the Legislature and run for re-election to the House in 2020, but will step down as Speaker at the end of the 2019 session.

Chopp also announced that his replacement will be selected before the Legislature adjourns this spring.

Priority #1: Condominium construction liability reform

Here in Washington, we have been building houses and apartments, but we've lost the "missing middle" of the housing market: construction of new condominiums has all but ceased for the last several years.

A critically important part of the explanation for the dearth of new condominium construction (and the fact that what few condos are being built are being priced at, or north of, \$1 million per unit) is that Washington's condominium law creates unnecessary financial risk and legal liability for builders.

Because of those risks, insurance companies that provide construction liability insurance to builders are charging construction insurance premiums in the tens of thousands of dollars for each condominium unit. As a result, affordability is destroyed, and builders aren't building condominiums because of

the high likelihood they will be sued.

Timeline

- **In the 2018 legislative session:** House Bill 2831, which was sponsored by Mercer Island Rep. Tana Senn, would have required that homeowner associations (HOAs) provide notice to builders regarding alleged condominium construction defects and a timely opportunity for the builder to meet with condominium owners to propose remedial action prior to being sued. Under the bill, a majority of the condominium owners in a project would have had to approve any condominium construction defect litigation prior to filing a lawsuit. HB 2831 passed out of the House Judiciary Committee with strong bipartisan support, but it was not voted on by the full House of Representatives because of opposition to the bill in the Senate's Law and Justice Committee.
- **During the interim:** After the Legislature adjourned in 2018, Washington REALTORS® met repeatedly with legislative leaders and participated in other planning meetings.
 - o May: Participated in a stakeholders' meeting regarding condominium construction liability reform
 - o June: Met with the Chair of the Senate Law and Justice Committee
 - o July: Met with condominium attorneys who represent builders and homeowner associations. This group later developed a consensus proposal to address shortcomings in state law regarding condominium construction liability. Importantly, the attorneys included individuals who are known to, and respected by, strategically placed leaders in both the House and Senate in Olympia.

Largely as a result of these efforts in the interim, the Policy Analyst for the Senate



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Democratic Caucus provided Bill Clarke, policy director for Washington REALTORS®, with a code reviser’s draft of a bill to fix the condominium construction liability problem in the current state law.

Highlights of the “condo fix” Bill the Legislature will consider in 2019

Below are the highlights of what the newly drafted condo fix bill will accomplish if it becomes law in 2019. This bill will be a top priority for REALTORS® both at Washington REALTORS® Legislative Hill Day and during the session.

- Prohibits individual HOA officers and board members from being sued

Section 1 of the bill would amend RCW 64.90.410 and Section 303 of Chapter 277 of the 2018 Session Laws.

The bill provides that when performing their duties, officers and board members of homeowner associations are not individually liable unless their acts or omissions involved intentional misconduct, or a knowing violation of the law, or a self-dealing transaction from which the individual personally receives a benefit in money, property or services to which they were not legally entitled.

This provision is important because it removes the leverage for attorneys to pressure homeowner association officials into suing a builder in order to avoid being sued themselves if they don’t.

- Modifies state implied warranties condo buyers receive from builders

When a builder sells a condominium to a new buyer, state law provides that the buyer receives an implied warranty from the builder.

Under existing law, the implied warranty says:

- o The condominium was constructed in accordance with “sound” engineering and construction standards.

The bill would change that language to “engineering and construction standards generally accepted in the state of Washington at the time of construction.”

- o The condominium was constructed “in compliance with all laws then applicable.” Builders have expressed concern that this existing language results in what courts call “strict liability” and allows builders to be sued (and to be liable for attorney fees), even if the item does not affect habitability, and even if there is no damage or defect in the unit.

The bill removes this language from state law.

- Requires condo purchasers who sue to establish a performance defect

Under current law, a condo purchaser is not required to establish an adverse effect on performance of the condominium in order to sue a builder.

The bill takes the exact opposite approach; it requires that in order to win a condominium construction defect lawsuit against the builder, a condo purchaser must establish that there is a defect that has an adverse effect on the performance of the condominium or common area.

The bill says that to establish an adverse effect on performance, the purchaser is required to prove that the alleged breach:

- o is more than technical
- o is significant to a reasonable person

- o violates engineering or construction standards generally accepted in the state of Washington at time of construction, and
- o has caused physical damage to the unit or common elements or presents an actual, unreasonable safety risk to the person.

Other potential modifications to condominium construction liability statutes

- Condo “light” (for small condos):

A condominium is a form of property ownership, not a type of construction.

When condominiums are discussed in the central Puget Sound region, many people envision a tall building with dozens of units. But elsewhere in the state, such as Spokane, a more typical condominium project might only be two or three stories tall and have far fewer units. Because of this, and because the state’s condominium law applies uniformly statewide, we anticipate legislators from outside the central Puget Sound region may propose amendments to the Condominium Act that would create different standards for smaller condominium projects. The exact nature of what might be proposed has not been made public, but we are advised that legislators in other areas of the state believe the focus on condominiums in 2019 may create an opportunity to fine-tune the current one-size-fits-all approach to condominium regulation.

- Rep. Tana Senn’s bill from last session (HB 2831), discussed on [page 3](#), may be revisited.
- Condo conversions: It appears unlikely that the Legislature will approve additional incentives to convert apartments to condominiums. While conversions have the potential to increase the percentage of ownership housing in the community, removing those properties from

the rental pool is perceived to be an action that would displace renters and exacerbate the challenges faced by households who can only afford to rent.

Because of this, some Seattle legislators and most housing affordability groups (whose primary focus is providing housing opportunities for low and moderate-income households earning less than 80 percent of median income) would be expected to strongly oppose more condominium conversions.

Private sector support is growing for condominium construction liability reform

Some local chambers of commerce (including the Eastside Chamber Coalition in King County) have added condominium liability reform to their 2019 legislative agenda. In addition to the work Washington REALTORS® is doing with the Association of Washington Cities (AWC), some individual cities – such as Covington, Maple Valley and Auburn – are also preparing to weigh in with the Legislature on the issue.

Home builders in King, Snohomish and Pierce counties are circulating model resolutions to local governments in their respective counties and asking the cities and counties to adopt the resolution as part of each jurisdiction’s 2019 legislative agenda. Those model resolutions typically contain nearly a dozen recitals explaining the nature of the condominium crisis, as well as an ask of the Legislature, such as:

“We the (city council/county council of X jurisdiction), support changes to the Washington Condominium Act that will address concerns about excessive litigation risk and encourage construction of affordable condominiums while maintaining consumer protections.”



Priority #2: GMA reform

During the last biennium, legislators in Olympia modified the state's Growth Management Act (GMA) to reform the buildable lands review processes in the state law, which is intended to ensure that a variety of different types of housing is available and affordable to "all economic segments of the population" in the state of Washington. Those reforms have the potential to eventually make a difference on the ground by requiring local governments to authorize the construction of more housing in the fastest-growing counties of the state, but the resulting housing units are unlikely to be available before 2024.

For that reason, as well as the fact that we continue to not have enough housing available to meet the needs of every person who needs a place to live, additional improvements to the GMA are needed.

Minimum densities

Sen. Guy Palumbo (from Snohomish County), who was one of the speakers at the Seattle King County REALTORS® annual Housing Issues Briefing in June, is expected to once again introduce legislation to require cities to enact minimum densities in urban areas. The goal of the legislation would be to make more efficient use of available urban lands designated for jobs and housing, and to increase both rental and ownership housing opportunities.

As distinguished from the minimum density proposal that was introduced last session, Sen. Palumbo's 2019 bill could potentially be revised to include triggers that would activate a requirement to increase zoned densities. Examples of factors that might play a role in trigger activation could include the degree to which a county, city or town has been adding new housing to meet actual market demand; the presence of properties in the jurisdiction that are zoned for lower density; the proximity of transit to properties that could

be upzoned; market prices and the relationship between prices/rents and median household incomes.

Funding for local buildable lands reviews and upzoning

Section 215 of the GMA (RCW 36.70A) requires certain counties to periodically conduct a review of their capacity to accommodate additional housing and jobs. Those reviews must inform updates to the comprehensive plans of city and county governments in Clark, Pierce, King, Kitsap, Thurston and Snohomish counties. The Legislature provided \$1.5 million to local governments in 2017 to assist with these reviews, but they need an additional \$4 million to make it work. In addition to support from the REALTORS®, builders and cities are likely to support providing this funding to local governments.

Additional funding for local governments will also be needed to do the land use planning necessary to accommodate minimum densities and to comply with any new minimum density mandates approved by the Legislature. The Legislature may also want to provide local governments with financial incentives or rewards if they increase densities.

In the past, when the Legislature has failed to provide sufficient funding for these buildable lands reviews, local governments have too often simply paid lip service to the requirements rather than engaging in the work required for land use planning that will ensure our communities have enough housing.

A possible funding source that has been discussed to pay for the buildable lands reviews and land use planning activities is an increase in the document recording fee.

Priority #3: Housing Trust Fund

Legislation may also be introduced during the 2019 session to allow a portion of the monies in the state's Housing Trust Fund to be used for the construction of owner-occupied housing in addition to publicly-owned housing. This issue is likely to be a high priority for Habitat for Humanity during the 2019 legislative session.

Conversely, housing authorities, the subsidized housing construction industry, as well as low- and moderate-income housing consortium builders will likely vigorously oppose efforts to expand access to the Housing Trust Fund.

Other factors likely to influence the Legislature in 2019

The Legislature is scheduled to meet for just 120 days in 2019. Even though additional special sessions are permitted, the constitutional time limit of 120 days creates pressure – and competition – for both state funding and legislators' time. That's why the Unlock the Door campaign is critically important in helping to ensure the Legislature treats the housing crisis as a top priority.

The following are some of the higher profile considerations that will also compete for legislators' time, attention and state funding:

Tax collections

State government revenues (tax collections) are approximately \$1 billion above revenue forecasts, but new programs that legislators have said they want to fund for health care, mental health (including Western State Hospital, which was cut off from \$50 million in federal funding), homelessness and other priorities are likely to cost approximately \$2 billion more than the Legislature has spent previously.

Included in those other priorities are K-12 education

items that are not currently within the definition of basic education, including special education, school nurses, career and technical education and so on. In addition, even though the Legislature has provided historic increases in K-12 funding, the negotiation of collective bargaining agreements with teachers and classified employees was left to local school districts. Pressured by the Washington Education Association (WEA) and strikes by local teachers, many school districts negotiated pay increases 10 percent to 16 percent that the districts don't actually have the money to pay. Districts and the unions have agreed to put pressure on the Legislature to pony up for the pay raises in those new collective bargaining agreements, otherwise the districts will face major layoffs of newer teachers (who have less seniority) to pay higher salaries for longer-tenured teachers.

Some Democratic leaders have also expressed an interest in providing significant additional state funding for access to higher education.

Finally, in late November, Democrats announced that with larger majorities in both the House and Senate they will make environmental issues a primary focus of their efforts during the 2019 session. Still, legislators are unlikely to consider new carbon taxes, as they have twice been rejected by voters.

Culverts case

Earlier this year, the United States Supreme Court refused to set aside a federal court decision that requires the state of Washington to improve fish passage on almost all culverts under state roadways. Modification of the most important culverts for fish passage must be completed within a relatively short timeframe, even though no funding source has been identified to pay for that work. The lawsuit was filed by 21 Northwest Indian tribes who were supported in the litigation by the federal government.



The cost of complying with the Court's decision is expected to be in the neighborhood of \$5 billion, and that does not include the potential cost to city and county governments to improve fish passage through culverts that run under city and county roadways. The culverts case will further stress the Legislature's budget and taxation issues.

B&O and REET

Rep. Kristine Lytton – who chairs in the House Finance Committee in Olympia until the end of 2018 – did not seek reelection in November, and the House Democrats have not identified her replacement.

It appears likely, however, that Rep. Gayle Tarleton, former Port of Seattle commissioner, will be the new House Finance Committee chair. Initial indications are that she does not have an appetite for increasing either real estate excise taxes (REET) or state business and occupation (B&O) taxes on REALTORS® in 2019.

Capital gains taxes

Speaker Frank Chopp said he believes there are enough Democratic votes in the House of Representatives in Olympia (where Democrats now hold a 57-41 majority) to pass a new Washington state capital gains tax.

Gov. Jay Inslee has also expressed support for a new state capital gains tax, but the Senate has to approve, too. So, the likelihood of the Legislature passing a new state capital gains tax will most likely depend upon the number of Democrats serving in the state Senate, which in turn will depend upon the final results of the elections in November. County election officials were required to certify their voting results by November 27 and provide that information to the Secretary of State. The Secretary of State was not required to certify the winners until November 30. A number of races in

northwest Washington remained extremely close, but the final makeup of the Legislature will be known well before the legislative session begins in January.

In the meantime, enactment of a new Washington state capital gains tax appears:

- **Unlikely** if – as in 2018 – there are 27 or fewer Democrats in the state Senate when the Legislature convenes in January 2019
- **Possible but difficult**, if there are 28-30 Democrats in the Senate; this is due to the number of Democrats who represent legislative districts that:
 - Are very competitive swing districts where neither Democrats nor Republicans have strong majorities, or
 - Have large numbers of voters who are fiscally conservative, or
 - Have large numbers of voters who are experiencing tax fatigue
- **Likely** if the Democrats have 30 or more members in the state Senate in January

Carbon (energy) tax initiative (I-1631)

The carbon tax initiative (I-1631) that was on the ballot in November, and which appeared to be important for Gov. Inslee's future plans, was defeated soundly. The oil and gas industry led the way in providing funding to educate voters to the reality that rather than punishing big oil, the financial burden would fall heavily on consumers. In 2016, voters also rejected a carbon tax measure with 59 percent voting "No."

As a result, Democratic leaders have already signaled that a carbon tax is unlikely to be a legislative priority for them in 2019.

Will the Legislature pass more tax increases?

There is pressure to raise taxes again in 2019, but little appetite for doing so among significant numbers of the legislators on both sides of the aisle. This is especially the case in the wake of the blowback from a voter-approved \$50+ billion Sound Transit (ST3) measure, and property tax increases the Legislature imposed to fully fund K-12 Basic Education. Those property tax increases were felt especially hard in communities with high property values.

The Legislature expects to have \$50 billion in revenues available for the 2019-2020 biennium

(which is several billion dollars more than current funding), but the governor's office and some legislative leaders have said that will not be enough money to fund their priorities.

It may be important to keep an eye on how the economy affects the amount of taxes collected by the state, as well as what happens as a result of the unsustainable teacher contracts approved by local school districts, proposals to address the difficult problems at Western State Hospital, the culverts case and the number of Democrats in the state Senate when the Legislature convenes in January 2019.

HOUSING SUPPLY

Regional Affordable Housing Task Force Addresses Housing Needs

During the past year, King County convened a task force to address affordable housing. While the task force emphasized the creation of and funding for subsidized housing for households earning 80 percent or less of area median income (AMI), Seattle King County REALTORS® was successful in encouraging the task force to include in its recommendations the promotion of greater housing growth and diversity to achieve a variety of housing types at a range of affordability and improve jobs/housing connections throughout King County.

Specific strategies include updating zoning and land use regulations (including in single-family low-rise zones) to increase and diversify housing choices, including but not limited to:

- Accessory dwelling units (ADUs) and detached accessory dwelling units (DADUs)
- Duplexes, triplexes and fourplexes
- Zero lot line town homes, row houses and stacked flats
- Micro/efficiency units

The task force has identified a need for 244,000 additional affordable homes in King County by 2040 so that no household earning 80 percent or less of AMI is cost burdened.

	0-30% AMI	31-50% AMI	51-80% AMI
EXISTING NEED	73,000	49,400	33,500
GROWTH TO 2040	29,700	23,900	34,500
SUBTOTAL	102,700	73,300	68,000
% TOTAL NEED IN 2040	42%	30%	28%

The projected need, particularly for families earning 0-30 percent of AMI, is significant. Importantly, the task force is contemplating funding models that do not solely fall on the shoulders of home buyers and sellers. Instead, they are considering a broader, regional approach.



Bothell Improves Accessory Dwelling Unit Ordinance

In keeping with Bothell's housing strategy, Seattle King County REALTORS® was successful in advocating that Bothell streamline its accessory dwelling unit (ADU) ordinance to promote affordable housing opportunities within the city and offer an income stream to homeowners without diminishing neighborhood character.

Bothell's recent amendment includes:

- Allowing carriage house-type units, including revising height requirements to accommodate two-story ADUs
- Consolidating ADU regulations into one chapter for ease of use
- Revising home occupation regulations to allow them in ADUs

Improved Sammamish Interim Development Regulations

In November, the Sammamish City Council made important amendments to the interim development regulations, which were adopted in September. The interim development regulations replaced the development moratorium that had been in place for the prior year. Council action in November grandfathers in pre-applications filed on or before September 18 and exempts some site preparation activity. While this is good news and will allow some projects to move forward while permanent

regulations are developed, city transportation concurrence requirements may constrain projects.

The Planning Commission will begin work on the permanent development regulations in December.

REALTORS® will continue to coordinate with the Master Builders Association of King and Snohomish Counties in support of a practical set of regulations and an end to ongoing development obstacles.

Seattle Cleared from Neighborhood HALA/MHA Appeal

Just before Thanksgiving, the Seattle Hearing Examiner dismissed a series of claims made by neighborhood groups opposing the Housing Affordability and Livability Agenda (HALA)-related Mandatory Housing Affordability (MHA) program, citing increased traffic conflicts, increased pollution and impact on small businesses.

The ruling allows the city to move forward with HALA upzones in urban village neighborhoods throughout the city.

The council initiated work in December to lay out the path forward on the upzones.

Seattle City Council Requests Racial Equity Review of Seattle's Growth Strategy

In adopting Seattle's 2019 budget, the Seattle City Council requested that the executive branch conduct a racial equity analysis of the urban village growth strategy outlined in the [comprehensive plan](#). The City Council is seeking further analysis of the distribution of the benefits and burdens of growth

among Seattle residents, including the impacts on communities at heightened risk of displacement. The council requested that the three agencies present a scope of work by June 2019, followed by a progress report on the effort in December 2019.

Seattle Likely to Explore Imposition of Impact Fees

Seattle King County REALTORS® has learned that members of the Seattle City Council are exploring the imposition of impact fees. Near-term, the fees are contemplated for transportation, but it is likely that if transportation fees are adopted, fees for parks and schools would soon follow.

The Growth Management Act (GMA) authorized impact fees as one-time charges assessed by counties, cities and towns against a new development project to help pay for new or expanded public facilities that will directly address the increased demand created by that development. Separate fees may be imposed for transportation, parks, schools and fire protection.

Impact fees may only be imposed for system improvements – public capital facilities in a local government’s capital facilities plan that are designed to provide service to the community at large (not private facilities), are reasonably related to the new development, and will benefit the new development.

To date, Seattle has not imposed impact fees because its capital facilities and infrastructure have been built out. Many smaller, relatively young jurisdictions need new facilities.

Throughout King County, Seattle King County REALTORS® has cautioned local jurisdictions to minimize their use of impact fees due to the impact on housing affordability.

SeaTac City Council Votes "Yes" to Creating Hundreds of Affordable Units Near Light Rail

The SeaTac City Council on December 13 voted to take the first steps toward creating hundreds of new units of affordable housing along the Sound Transit Light Rail corridor.

In a 5-1 vote, the council authorized the City Manager to sign a Purchase and Sales Agreement with CAP Acquisitions, LLC (AKA Inland Group) for the purchase of city of SeaTac properties located in the vicinity of South 154th Street and International Boulevard, including the SeaTac Center. The proposed project will create 665 units of housing along with 30,000 square feet of new commercial space next to the Tukwila International Boulevard Light Rail Station.

The buildings would include approximately 385 units of workforce housing, which is affordable for individuals and families earning less than 60 percent of area median income.

“This will allow more community members an affordable option to live and work in SeaTac,” said Mayor Erin Sitterley. “The transit-oriented development project creates badly needed housing while giving residents an option to be mobile without the need of a car.”

The proposed project would be constructed on at 4.5-acre site at 15245 International Boulevard South, which contains a 65,000 square foot commercial building and a structured parking garage. The city purchased the property in 2010 with the intent to sell it for redevelopment.

Currently, the city has leases with 11 tenants who were notified of the sale in March. The city's Community and Economic Development Department has offered assistance in finding new spaces for all businesses currently operating on the site.



New Multi-City Effort to Address Affordable Housing in South King County

Since 1993, cities in east King County have joined together to pool their resources and energies to assist with preserving and increasing the supply of housing for low- and moderate-income households. The effort, called A Regional Coalition for Housing, or ARCH, today includes 15 Eastside cities and the King County government.

Now, with some of the fastest increasing rental rates in the nation occurring in south King County, Southend cities are experiencing the suburbanization of poverty as incomes fail to keep up with the cost of housing. Like east King County jurisdictions, the Southend cities know that housing and homelessness challenges don't stop at city lines. The result is that Southend cities, the Housing Development Consortium and other housing advocates have been pushing for the creation of a sub-regional collaborative effort that could emulate some of the most affective aspects of ARCH while leaving room for the uniqueness of challenges in the Southend.

ARCH has earned a reputation for success by focusing on the coordination of public resources to attract greater private and not-for-profit investment into affordable housing, pooling technical resources to assist in the development and implementation of housing policies and programs, providing expert

assistance to local organizations interested in becoming active in providing affordable housing, providing ongoing community involvement information and leadership regarding housing needs, and providing information to members of the public on local housing issues.

Thus far, Auburn, Burien, Kent, Renton, Tukwila and King County have indicated an interest in participating in such an endeavor for south King County. In addition, cities such as Covington, Des Moines, Federal Way, Maple Valley, Normandy Park and SeaTac have also expressed interest and are still considering their participation. At its core, the shared value that unifies the jurisdictions is the simple notion that everyone in King County should have access to safe and healthy housing that they can afford.

In the meantime, ARCH and its leadership have recently been the focus of criticism in connection with allowing units intended for economically vulnerable households to be occupied by individuals who do not appear to be eligible for housing assistance, including high-level officials in the executive branch of state government. Longtime housing advocate and ARCH Executive Director Art Sullivan has announced his retirement.

SeaTac City Council Plans Housing Development Projects on Two City-Owned Properties

The SeaTac City Council has decided to move forward with development plans for two city-owned properties. A third property awaits further council action. The three properties are the SeaTac Center and former fire stations 45 and 47. The city issued a request for proposal (RFP) for redevelopment of all three properties.

During a September 25 meeting, the council directed the city manager to enter into negotiations

with the Inland Group to purchase and redevelop the SeaTac Center. The Inland Group proposes a multi-use project with 665 residential units including workforce housing and 30,000 square feet of commercial space on the bottom level. The 4.8-acre property is located in 15200 block of International Boulevard South across from the Tukwila International Boulevard Light Rail Station. The multifamily development fits within the scope of the South 154th Street Station Area Action

Plan, which was adopted in December 2006 and updated in 2017. The SeaTac Center is an aging building that was built in 1954 and currently houses multiple tenants. Since 2004, the city has slated the property for redevelopment. The City Council voted to purchase the property for transit-oriented development in 2009.

Council members also voted to authorize the city manager to enter into negotiations with the Low- Income Housing Institute (LIHI) for the sale and redevelopment of the former Fire Station 47 property. The LIHI proposal calls for the building of 60 residential units. The council also instructed city staff to work with the developer to create commercial

space on the ground floor of the project. The property is located at 3215 South 152nd Street and is zoned for high-density residential. The project may include commercial space components with a multifamily development.

During the meeting, the council also voted to remove the Fire Station 45 property from the market to consider further commercial alternatives in the future. The property is zoned for commercial use and the only proposal submitted was for a multi-story residential property that did not include a commercial element. The property is located at 2929 South 200th Street.

REAL ESTATE SIGNAGE

Newcastle Sign Code: Will You Be Allowed to Use A-Board Signs?

Your use of open house A-board signs is at risk in the city of Newcastle. If you do business in Newcastle, we need your help in telling the City Council that open house A-boards are critically important.

The issue

The city is updating its sign code in compliance with Reed vs. Gilbert, a U.S. Supreme Court decision that prohibits regulation of signage based on the content of the sign.

The city's current draft code defines a sign as temporary or permanent based on the material used to make the sign. Due to the durable material used in an A-board sign, A-boards would be considered permanent and would be prohibited from placement in the right-of-way, unless the broker obtained a right-of-way use permit. Even then, only one sign would be allowed.

Temporary signs may be placed in the right of way without permit but must be pushed or staked into the ground and made of non-durable material like a political yard sign. This is the city's way of

accommodating open house signs. Any business, organization or individual would be able to post such signs with no limit on duration and no requirement to pick them up. As you might imagine, this will lead to a proliferation of signs.

With work from Seattle King County REALTORS®, the Planning Commission added a provision allowing A-boards during daylight hours on Friday, Saturday and Sunday in residential zones, with the approval of the abutting property owner. While better than nothing, it is cumbersome. Seattle King County REALTORS® is reviewing the language and developing a strategy.

The process

The draft code will now be considered by the City Council. It is not yet clear what the council timeframe will be, but we expect action in January.

What we can do

It will be important that we are seen and heard at the City Council. Please contact Seattle King County REALTORS® Housing Specialist Randy



Bannecker at randy@bannecker.com if you would like to engage in the issue as it moves to council.

Covington City Council Adopts New Sign Code

The same U.S. Supreme Court decision that prompted the city of Newcastle to review its sign code has caused the city of Covington to adopt a content-neutral sign code, despite objections from REALTORS® and a decision by the Ninth Circuit Court of Appeals which held the Reed vs. Gilbert case does not apply to commercial signs. REALTOR® off-site temporary open house signs are commercial signs because they propose or invite a real estate transaction.

Despite the fact that the experience of other cities has demonstrated that sign code permits for temporary off-premise signs tend to produce limited benefit and consume significant city resources, the City Council approved a staff recommendation to require permits. The Planning Commission punted on the issue and did not support or oppose the staff's proposed permit requirement.

The permit requirements will not take effect until the city has the permit program in place, which is likely to be early in January. The provisions of the ordinance regulating the following items, however, took effect almost immediately and will be enforced by 1.5 FTE code enforcement officers:

1. Number of **on-site** real estate signs allowed: just one. This is the yard-arm sign on the property that is or sale or rent.
2. Number of **off-premise** signs allowed: six total, per broker.

This limit of six includes the total of all open house A-boards, pointer arrows, single-sheet/ double-sided open house signs on stakes and so on. In other words, all signs except the one in the front yard of the property count toward the total of six.

3. Time of day off-premise signs are allowed:
 - Sunrise to sunset only, making it illegal to have ANY off-premise signs – including arrow pointer signs – displayed at night between sunset and sunrise, **AND**
 - The broker or seller must be physically present at the property being offered for sale or rent while the off-premise signs are up, **AND**
 - The property (or in the case of other commercial signs, the store or office) must actually be open to the public while the off-premise signs are up.
4. Maximum size of all off-premise signs

These are basically the measurements of a typical open house A-board.

 - Maximum height: 3 feet
 - Maximum total sign area per side of the sign: 6 sq. ft.
 - Maximum total sign area: 12 sq. ft. (two sides, at a maximum of 6 sq. ft. each)
5. No off-premise signs will be allowed in the following areas or in the following manners **(this will be a high priority for enforcement action beginning immediately)**:
 - Medians
 - The middle of roundabouts, or on the periphery of roundabouts
 - Affixed to trees, utility poles, sign poles and so on
 - Blocking pedestrian or wheelchair mobility on sidewalks
 - Creating an impediment to vehicle or bicycle traffic
 - Interfering with traffic sight distances

The city will pick up signs that violate any of

these rules, and sign owners will have to make arrangements with city staff to go to the city's utility shed when staff is available in order to pick up the signs. If violators wait more than a week or so to pick

up their signs, their signs will likely end up in the dumpster and the sign owner will have to replace the signs at their own expense and inconvenience.

TAXES

Bothell: New Taxes on Business Averted!

This year, the city of Bothell faced a \$3.2 million budget shortfall. Among the new revenues the city contemplated was the imposition of a business and occupation (B&O) tax and a head tax, which places an annual tax on a business for each employee. While both tax structures are in use in many cities across the region, both can be detrimental to business retention and recruitment – head taxes in particular.

Fortunately, the council chose not to pursue these taxes at this time. Instead, the city will close the budget hole by selling surplus property and retaining an economic development staff position to grow the tax base.

Seattle King County REALTORS® will coordinate with the Bothell Chamber of Commerce and its members to convey the potential damage to the city's economic vitality as these revenue concepts are debated in the coming year 2019.

Kent City Council Increases B&O Tax, Again

Despite strong, vocal, sustained objections from the business community – including REALTORS® – the Kent City Council has voted to increase city business and occupation (B&O) taxes. Again!

The council decided that this will be the first of four B&O tax increases which will be levied over the next 10 years. Even without the three additional increases, the taxes are expected to produce about \$11.5 million for the city in 2019 and \$14.9 million in 2020. This increase takes the tax rate on retail services (including real estate brokerages) to the maximum amount allowed under state law.

The city B&O tax rate on retail services will be 0.152 percent through 2021, and then on January 1, 2022 will rise to 0.200 percent – an increase of more than 31 percent.

The council agreed to limit the tax to the first \$20 million received by an individual business, and to provide an exemption for the first \$250,000 of gross

receipts; however, that exemption has little value for the real estate brokerage industry, because the B&O tax obligations of individual brokers are lumped together with the B&O tax obligations of the firms where the brokers hang their real estate licenses.

The vote by council members was unanimous, even though current City Council President Bill Boyce stated publicly in 2017 (when voting to pass a 100 percent increase in the square footage portion of the B&O tax) that he would not vote again for B&O taxes to balance the city budget.

In 2012, the city enacted a B&O tax on the gross receipts of businesses. In order to capture more tax revenue from warehouses on the valley floor, the tax also included a square footage component that is based on the number of square feet of space a business occupies. Businesses pay either the traditional B&O portion of the tax on gross receipts, or the square footage portion of the tax, whichever



is larger.

In 2017, the city increased the square footage portion of its B&O tax by 100 percent.

The city says it is facing a significant reduction in revenue, calling the situation as a fiscal cliff. The city says that in October 2019, it will no longer receive approximately \$5 million of streamlined sales tax mitigation, and in June of 2020, it will no longer receive \$4.7 million of annexation sales tax credits.

In the meantime, however, the city has received – and continues to receive – millions in windfall revenues as a result of jettisoning the responsibility to pay for the fire department. Those costs are now covered by the Puget Sound Regional Fire Authority, which has both its own property tax base and a separate voter-approved fire fee to provide funding for fire department services.

In addition, in late 2017, in a move that caught most everyone by surprise, the City Council voted

to increase city property taxes 38.8 percent in a single year. Your Seattle King County REALTORS® representative was present at the meeting and offered the only public testimony in opposition to the increase.

Finally, the city’s sales tax revenues have increased significantly as the economy rebounded from the Great Recession. The city now has a fully-funded operating reserve of more than 20 percent of the budget tucked away in savings. Opponents who questioned the accuracy of the fiscal cliff metaphor requested the council take a more balanced approach. They point to best practices recommended by the Government Finance Officers Association that advise 4 to 8 percent reserves are good; 8 to 15 percent reserves are strong; and more than 15 percent in reserves is very strong.

Chamber of Commerce CEO Andrea Keikkala told the council that approving these four B&O tax increases over the next 10 years is not something the city is doing “with” the business community, it’s being done “to” the business community.

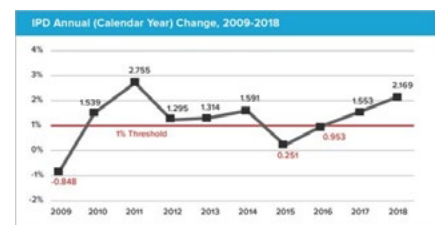
Cities Can Raise Property Taxes a Full 1 Percent Without Demonstrating Substantial Need

Washington state law requires local governments to limit annual property tax increases to the lesser of inflation or 1 percent, with one exception: When inflation is less than 1 percent annually, cities can still take a full 1 percent increase – but only if they adopt a finding that demonstrates a substantial need for doing so. If cities do not need the full 1 percent increase, they are also allowed to bank that taxing capacity for use in later years when the funds are needed.

The Municipal Research Services Center announced that since September 2017, the rate of inflation as measured by the Implicit Price Deflator (IPD) for Personal Consumption Expenditures was 2.169 percent. This means that local governments,

regardless of whether they have populations greater or less than 10,000 may levy the full 1 percent increase in local property taxes as allowed by RCW 84.55.005.

According to the Municipal Research Services Center, over the past 10 years the IPD has fallen below the 1 percent inflation mark three times, where previous to that it had not fallen below 1 percent once since 1998.



TRANSPORTATION

Seattle Period of Maximum Constraint

Beginning with Washington State Department of Transportation's (WSDOT) permanent closure of the Alaskan Way Viaduct on January 11 and continuing through the next five years, Seattle is entering a new era of bad traffic. Even after the new SR-99 tunnel opens as a viaduct replacement, the tough times will continue. Additional private and public megaprojects will continue to reduce capacity on our city streets and contribute to gridlock.

Upcoming projects

Washington State Convention Center (WSCC) construction

Summer of 2018 – WSCC has launched a transformative project that will provide economic and public benefits, including affordable housing, cycling, pedestrian improvements and a study of lidding more of I-5 as part of its \$92 million expansion. Construction is expected to be complete in 2021.

Rainier Tower 2 construction

Currently in construction – At the corner of Fifth Avenue and Union Street, Rainier Tower 2 is a new building being built in Rainier Square and will become an iconic skyscraper on Seattle's horizon. It will house new space for offices, retail stores, a hotel, residential units and parking. Construction is set to continue into 2021.

Viaduct closes

January 11, 2019 – WSDOT will close SR 99 through downtown Seattle for approximately three weeks to build roadway and ramp connections, realign SR 99 and open the new SR 99 tunnel.

Tunnel opens

Early February – The new two-mile stretch of SR 99 tunnel opens to traffic.

Viaduct demolition

February 2019 – After the tunnel opens, AWW demolition begins by the waterfront, the tunnel will be decommissioned, and Aurora Avenue North connected. Demolition could continue into the early summer.

Waterfront construction

2019 – Built by the city of Seattle's Office of the Waterfront, the new Alaskan Way street will be transformed along the waterfront.

Bus service ends in transit tunnel

Spring 2019 – King County Metro bus routes 41, 74, 101, 102, 150, 255 and Sound Transit Express Route 550 buses will no longer use the transit tunnel and will operate on surface streets.

SR 99 tunnel tolling

2019 – The SR 99 tunnel will be free to use when it opens for a period of time before tolling starts.

OTHER CITY ACTIONS

City of Federal Way Wins Initial Legal Battle with Lakehaven Water and Sewer District

King County Superior Court Judge John McHale has ruled that the city of Federal Way has authority to tax water and sewer utilities, including the Lakehaven Water and Sewer District. Judge

McHale ruled that the city's tax on water and sewer utilities is constitutional.

In March, as part of an effort to balance the city's



budget going forward, the Federal Way City Council passed an ordinance to impose a 7.75 percent tax on water and sewer utilities not already paying excise taxes to the city.

Lakehaven Water and Sewer District, Highline Water District and Midway Sewer District responded by filing suit, challenging the legality of the city of Federal Way's ordinance claiming it is not authorized by state law, and also that it's unconstitutional. They lost the first round of the litigation when judge McHale ruled against them.

In reaching his decision, Judge McHale relied on the decision of Division III of the Washington state Court of Appeals in *City of Wenatchee vs. Chelan County Public Utility District*. Utilities have

been hoping the Federal Way case might provide an opportunity for the state Supreme Court to consider whether RCW 35A.82.020 authorizes cities to impose an excise tax on other municipal entities such as special-purpose sewer and water districts.

Federal Way Mayor Jim Ferrell said, "The ordinance passed by our City Council is merely a matter of equity in that it now treats water and sewer utilities like other utilities. As I informed the public and our City Council earlier this year, our actions were lawful, constitutional, and equitable. We did not initiate any legal action, and now that our King County Superior Court has affirmed what I have been saying all along, I am hopeful that we can move forward without further litigation."

Kent Among Top 10 Nationally for Most Car Thefts, Study Says

According to a new survey by ASECURELIFE, a home protection system company, Kent is one of the top 20 worst cities in the nation for car theft. According to the study, which was based on FBI crime data for metropolitan cities throughout the country with a population of at least 100,000 people, Kent ranked ninth with 4.98 cars stolen per 1,000 people.

Car thefts are more prolific in the western portion

of the country, which the study authors speculate may be due to the fact that people in the West are car-dependent, whereas in more populated eastern metropolitan areas more people rely upon transit rather than on personal transportation.

No other cities in Washington made the top 20 worst, but two Oregon cities (Gresham in eighth with 5.11 stolen cars per 1,000 people, and Portland in fifth with 5.57 stolen cars per 1,000 people) did make the list.

Maple Valley Among 20 Safest Cities in Washington State, according to SafeWise

SafeWise – a community-focused security organization committed to increasing safety education, awareness, and preparedness – announced that the city of Maple Valley ranks eleventh among the "20 Safest Cities" in Washington state.

To identify the safest cities in Washington, SafeWise reviewed the 2016 FBI crime report statistics, evaluated the number of reported violent crimes in each city, and factored in the number of property crimes. The calculations are based on a rate of

crimes per 1,000 people in each city.

SafeWise Security Analyst Alexia Chianis said, "In addition to beautiful scenery, a thriving music scene, and high quality of life, Washington earns kudos for its low rate of violent crime – which is 23 percent lower than the national average. Among the twenty safest cities in the state, violent crime was even less common. In fact, of these cities, all but three reported less than one violent crime for every 1,000 people."

Other nearby cities that were also ranked among the 20 safest in the state include Snoqualmie (ranked first), Sammamish (ranked third) and

Issaquah (ranked seventeenth). [Read the full SafeWise report.](#)

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 were conducted for state legislative positions (all House members and half of Senate members). The general election was 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.

Seattle King County REALTORS® endorsed 30 candidates in this year's general election; 23 of the 30 endorsed candidates (77 percent) were elected into office. Twenty Seattle King County REALTORS® members participated in conducting candidate endorsement interviews.



Issues & Impacts

REALTORS® Political Action Committee (RPAC)

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



NATIONAL ASSOCIATION of REALTORS®

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/?referrer=https%3A%2F%2Fwww.nwrealtor.com>

As of the end of October, Seattle King County REALTORS® has raised **\$300,120** for the REALTOR® PAC. **Please invest in RPAC** at www.warealtor.org/government/political-affairs/.

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 April 2019. The 2018 VP of Governmental & Public Affairs is Georgia Stevens georgia@compass.com, VP-elect of Governmental & Public Affairs is Lynn Sanborn lynn@windermere.com, staff director is David Crowell dcrowell@nwrealtor.com, and our local legislative housing advocates are Sam Pace sam@sampace.com and Randy Bannecker randy@bannecker.com. Please call David at 425.974.1011 ext. 704 if there are any local legislative issues that need our attention.